

NH.PUC*01/04/93*[74952]*78 NH PUC 1*New Hampshire Electric Cooperative, Inc.

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Re New Hampshire Electric Cooperative, Inc.

DR 92-212
Order No. 20,714
78 NH PUC 1

New Hampshire Public Utilities Commission

January 4, 1993

Report and Order Approving Power Cost Adjustment Clause.

Appearances: Broderick and Dean by Mark W. Dean, Esq. for the New Hampshire Electric Cooperative, Inc., Eugene F. Sullivan and Thomas Frantz, on behalf of the Commission Staff.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On December 1, 1992, New Hampshire Electric Cooperative, Inc. (NHEC) filed with the New Hampshire Public Utilities Commission (Commission) testimony and exhibits requesting a Power Cost Adjustment Clause (PCA) to replace its Fuel Cost Adjustment and Purchased Power Cost Adjustment Clauses effective January 1, 1993.

The Commission heard evidence from Teresa L. Muzzey, Power Supply Administrator, on December 18, 1992 as scheduled. At the hearing, Ms. Muzzey presented the company's proposal for the new clause. There were no intervenors.

II. *POSITIONS OF THE PARTIES AND STAFF*

A. *New Hampshire Electric Cooperative*

NHEC testified that the PCA was needed due to implementation of the new Amended Partial Power Requirements contract with its main supplier of electricity, Public Service Company of New Hampshire, (PSNH) on January 1, 1993. The new PSNH wholesale contract has a fuel and purchased power clause (FPPAC) which is similar to the clause included in the PSNH rate plan. As a result of the new wholesale FPPAC the fuel portion of the rates chargeable under the contract is not separable from the power cost, which results in the implementation of this new clause. The clause is to be in effect for a twelve month period from January 1 to December 31 of each year. NHEC further testified that the clause may need to be adjusted on July 1 of each year when the new FPPAC rate from PSNH is received, or when another supplier increases its rates.

In its original filing NHEC requested a PCA rate of \$.00827/kwh using data for the period October 1, 1991 to September 30, 1992 as the basis for the forecasted period. The PSNH data is based upon forecasted costs and the costs from NHEC's other suppliers were based upon actual rates in effect. Also included was a projected under collection as of December 31, 1992 of \$604,886. At the hearing Ms. Muzzey revised NHEC's estimated under collection as of December 1992 to reflect actual data through November 30, 1992, resulting in a new projected under collection of \$214,547. This revision results in a decrease in the requested rate to \$.00762/kwh. At the hearing Ms. Muzzey explained that the new wholesale rates to be effective on January 1, 1993 would go into effect even though NHEC had not emerged from Bankruptcy. This is due to language in the contract which provided that the difference between the rates now in effect and the new rates would be deferred until the time NHEC came out of Bankruptcy, at which time the deferral would be forgiven. If NHEC did not emerge from Bankruptcy, the difference would then become due.

B. *Commission Staff*

Staff did not present testimony of its own, but questioned Ms. Muzzey regarding NHEC's position regarding a trigger mechanism by which the PCA would be changed if the estimated over/under recovery was greater than 10% of the total estimated fuel cost for the period. Staff further questioned Ms. Muzzey as to the reason that the forecast was based on historical data and not on estimated data for the upcoming period. Ms. Muzzey testified that the use of estimated data would have little effect on the PCA and that NHEC could file using estimated data. Staff finally questioned Ms. Muzzey as to the interest rate NHEC charged

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on over/under collections. Ms. Muzzey stated that NHEC used the same interest rate that it applied to customer deposits.

III. *COMMISSION ANALYSIS*

We have reviewed the testimony of Ms. Muzzey and are persuaded that the PCA rate of \$.00762/kwh is appropriate for the upcoming period. We will however require NHEC to make two changes to its PCA. The changes are:

1) The interest to be applied on over/under collections will be the average of the monthly prime rate for the month on which the interest is being calculated. The calculation of the average prime rate would be a summation of the prime rate for each day of the month divided by the number of days, using the prime rate published daily in the "Wall Street Journal".

2) NHEC will be required to add a 10% trigger mechanism to its PCA. The calculation of the trigger will be as follows:

At any time that the projected over/under collections for the current period reaches 10% of the estimated costs for the period any party may file for a review of the PCA rate in effect. The estimated costs for the period shall include actual costs for the period to date and updated forecasts for the remainder of the period.

Finally, we will require NHEC to file its future PCA changes on a forecasted basis.

Our order will issue accordingly.

Concurring: January 4, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that, the Power Cost Adjustment Clause as requested by the New Hampshire Electric Cooperative, Inc. (NHEC) be approved; and it is

FURTHER ORDERED, that a PCA of \$.00762/kwh be applied on a bills rendered basis as of January 1, 1993, to be collected through December 31, 1993; and it is

FURTHER ORDERED, that the PCA bear interest calculated at the average of the prime rate for the month; and it is

FURTHER ORDERED, the PCA have a trigger mechanism as described in the attached report; and it is

FURTHER ORDERED, that all further filings of the PCA be on a forecasted basis; and it is

FURTHER ORDERED, that NHEC file compliance tariff pages within 10 days from the issuance date of this order.

By order of the New Hampshire Public Utilities Commission this fourth day of January, 1993.

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NH.PUC*01/04/93*[74953]*78 NH PUC 2*Concord Electric Company

[Go to End of 74953]

Re Concord Electric Company

Additional respondent: Exeter & Hampton Electric Company

DR 92-209

Order No. 20,715

78 NH PUC 2

New Hampshire Public Utilities Commission

January 4, 1993

Fuel Adjustment Clause and Purchased Power Adjustment Clause.

Appearances: Leboeuf, Lamb, Leiby & MacRae by Scott J. Mueller, Esquire for Concord Electric Company and Exeter & Hampton Electric Company; Eugene F. Sullivan, Finance Director, and Thomas C. Frantz, for the New Hampshire Public Utilities Commission Staff.

BY THE COMMISSION:

REPORT

I. *Procedural History*

On December 2, 1992, UNITIL Service Corporation filed, on behalf of Concord Electric Company (Concord) and Exeter & Hampton Electric Company (Exeter & Hampton) (collectively the Companies), revised Fuel Adjustment Clause (FAC) rates and Purchased Power Adjustment Clause (PPAC) rates for the period January through June, 1993. Concord requested a FAC credit of \$0.00564 per kWh and a PPAC rate of \$0.00971 per kWh. Exeter & Hampton requested a FAC credit of \$0.0676 per kWh and a PPAC rate of \$0.00593 per kWh.

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The Companies also filed revised tariffs for Short-term Power Purchase (short-term avoided capacity and energy) rates for Qualifying Facilities (QF) as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Energy Rates on Peak	3.65 cents per kWh
Off Peak	2.62 cents per kWh
All Hours	2.97 cents per kWh
Capacity Rate	\$0.53 per kW-year

The New Hampshire Public Utilities Commission (the commission) held a duly noticed hearing at its offices in Concord on December 17, 1992 to review the Fuel Adjustment Clause and Purchased Power Adjustment Clause and short-term power purchase rate filings of the Companies. Concord and Exeter & Hampton presented two witnesses, Karen M. Asbury and David W. Lavoie, both of whom submitted pre- filed testimony and exhibits.

II. *Positions of the Parties*

The instant filing covers the six month period from January through June, 1993. Witness Asbury presented the calculations of the fuel adjustment clauses and purchased power adjustment clauses for Concord and Exeter & Hampton. Ms. Asbury testified that the Companies calculated the PPAC and FAC rates consistent with the methodology proposed in the Stipulation and Agreement regarding the retail rate design for Concord and Exeter & Hampton in DR 91-065. Exh. 2 at 2. Under the Stipulation and Agreement, the PPAC and FAC mechanisms are restructured to permit collection of base purchased power revenue through class specific demand and energy charge components and to reflect time differentiated base fuel charges for time of use rates. *Id.* Ms. Asbury stated that the commission announced that it had approved the Stipulation and Agreement in DR 91-065 on December 14, 1992, but that a Report and Order had not yet been issued.

Ms. Asbury testified that the FAC rate, calculated consistent with the methodology in DR 91-065, was being decreased from the prior period from a credit of \$0.00303 per kWh to a credit of \$0.00564 per kWh, a reduction of \$0.00261 per kWh for Concord, and from a credit of \$0.00261 per kWh to a credit of \$0.00676 per kWh, a reduction of \$0.00415 per kWh for Exeter & Hampton. The PPAC, calculated consistent with the methodology in DR 91-065, would be increased over the prior period from \$0.00908 to \$0.00971 per kWh, or by \$0.00063 per kWh for Concord, and decreased from \$0.00980 to \$0.00593 per kWh, a reduction of \$0.00387 per kWh

for Exeter & Hampton.

Ms. Asbury and Mr. Lavoie stated at the hearing that based upon November, 1992 actual data, which had just been received, UNITIL Power Corp. (UPC) would be revising its wholesale billing rate. Ms. Asbury recommended that the commission adopt revised FAC and PPAC rates reflecting this updated data and that the Companies intended to submit revised tariffs the day after the hearing. On December 18, 1992, the Companies filed revised calculations to reflect the November, 1992 actual data in the FAC and PPAC rates. The revised rates for the Companies' PPAC and FAC are as follows: for Concord the PPAC would be \$0.01023 per kWh and for Exeter & Hampton it would be \$.00734 per kWh. The rates for the Companies' FAC would be a credit of \$.00577 per kWh for Concord and a credit of \$.00637 per kWh for Exeter & Hampton.

Mr. Lavoie testified on the derivation of UPC's wholesale rates and the calculation of UPC's short-term avoided cost rate. Exh. 3. His pre-filed testimony indicated that the UPC's wholesale rates, effective January 1, 1993, would be as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Demand	\$17.98 KW/Mo.
Base Energy	\$.02135 KWH
Fuel Charge	\$.01895 KWH

Exh. 3 at 3.

These rates reflect an anticipated decrease of \$428,300 or 1.9% in UPC's wholesale costs. *Id.* According to Mr. Lavoie, the components of this decrease are a \$256,900 decrease in Demand Charges, a \$982,300 increase in Base Energy Charges and \$1,153,700 decrease in Fuel Charges. *Id.*

At the hearing, Mr. Lavoie indicated that UPC intended to revise its billing rates effective

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January 1, 1993 to reflect actual data for November, 1992. According to Mr. Lavoie, incorporation of the November 1992 actual data would produce the following wholesale rates:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Demand	\$18.25 KW/Mo.
Base Energy	\$.02166 KWH
Fuel Charge	\$.01898 KWH

In regard to UPC's short-term avoided cost rates, Mr. Lavoie testified that UPC calculated estimates for both capacity and energy. Exh. 3 at 10. The avoided short-term capacity rate is based on actual experience contracting for capacity during the July through December, 1992 period and a forecast of anticipated short-term capacity transactions for the January through June, 1993 period. The costs of these transactions are established and a transaction weighted average cost rate is used as the Current Period avoided capacity rate. This method was developed after discussions with the Commission Staff in DR 90-095 and DR 90-097. Mr. Lavoie testified that UPC expects to have more capacity than it will need to meet its NEPOOL Capacity Responsibility through April, 1993, and then expects to be slightly deficient in the months of May and June, 1993, necessitating minor purchases. Exh. 3 at 10. UPC has not entered into any

transactions for capacity in the last six months nor does it expect to sell any capacity to the surplus regional market during the Current Period. Mr. Lavoie provided a calculation of the avoided short-term capacity rate of \$0.53 per kW-yr for the Current Period. Exh. 3 at DR-11.

UPC develops avoided energy cost rates using the same production costing stimulation model used to forecast Current Period energy costs. Exh. 3 at 10. The system energy requirements are decreased for all hours of the upcoming cost period by 5 MW and new production costs are estimated. This process is repeated with an all hours increase of forecast energy requirements by 5 MW. The difference in total production costs between each case and the base case is averaged and divided by the total average MWH differentials. Exh. 3 at DL-12.

During Staff's cross-examination of the Companies' witnesses, Staff asked Mr. Lavoie to explain the reason for the increases in the UPC rates based on the November, 1992 actual data. Mr. Lavoie explained that the increases are due primarily to three factors: an increase in capacity costs for the Indeck unit; an adjustment to the bill for the New Haven Harbor generation unit; and variance associated with the Stoney Brook plant. Staff also asked the witnesses about regulatory approval of UPC's wholesale rates. The witnesses testified that UPC's wholesale rates are filed for approval with the Federal Energy Regulatory Commission (FERC) in May of each year, for rates covering the previous year. FERC may open an investigation, or if it takes no action, the rates are automatically approved 90 days after filing. In response to a staff record request, the Companies stated that the FERC had not opened an investigation of UPC's wholesale rates during the past five years. Exh. 6.

Staff also queried Ms. Asbury about the Companies' Weather Normalization Technique reflected in the filing and asked if there had been any changes in the Companies' methodology since its last filing with the commission explaining its weather normalization. In response to a record request, the Companies referred to a detailed description that was provided in a record request in prior FAC/PPAC proceedings, DR 91-059 and DR 91-060. Exh. 4.

The Companies also responded to Staff questions regarding use of an adjustment for the billing cycle lag in forecasting purchases. Exh. 5. Staff noted that there were different interpretations of whether the term "bills rendered" meant that a new rate should be applied to any bills issued after a certain date, or whether the new rate only applied to bills for service provided after that date. The Companies indicated that, consistent with their prior practice and the commission's rules, they implemented new rates with any bills issued on or after the effective date approved by the commission.

The Companies' witness also responded to inquiries from the Staff regarding details of UPC's purchased power contracts and the termination of the Ware Cogen contract. Staff asked Mr. Lavoie if there was any way for Staff to know by looking at the filing what unit transactions were entered into in the prior six-month reconciling period or how individual units ran compared to their forecasted availability. Mr.

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Lavoie responded that the filing contains, primarily, a forecast of costs for the upcoming period, but that historic cost detail on prior purchases or availabilities was not included in the filing, but the Companies would be willing to provide it in future filings if it were requested.

III. COMMISSION ANALYSIS

The commission will accept the revised filings of the Companies submitted on December 18, 1992. The commission finds that the FAC for the January through June, 1993 period will be a credit of \$.00577 per kWh for Concord and a credit of \$.00637 per kWh for Exeter & Hampton. For the same period, the PPAC for Concord will be \$.01023 per kWh and \$.00734 per kWh for Exeter & Hampton. For a typical Concord residential customer using 500 kWh per month, the net result of the PPAC and FAC changes is a \$0.80 decrease to a monthly 500 kWh bill. A typical 500 kWh per month residential bill for Exeter & Hampton customers will decrease by \$3.12.

The commission also finds the proposed short term avoided capacity and energy rates to be just and reasonable, and calculated in accordance with the methodologies outlined in previous commission orders.

In regard to Staff's concern about the lack of data on power purchases and unit availabilities for the reconciled period, we agree that more specific information should be made a part of the Companies' filing and will, therefore, direct the Companies to work with Staff on what additional information should be included in the next filing.

Our order will issue accordingly.

Concurring: January 4, 1993

ORDER

Based upon the foregoing report, which is incorporated by reference herein, it is hereby

ORDERED, that the Concord Electric Company Fuel Adjustment Charge for the period of January through June, 1993, shall be a credit of \$.00577 per kWh; and it is

FURTHER ORDERED, that for the period January through June, 1993, the Concord Electric Company Purchased Power Adjustment Clause shall be \$.01023 per kWh; and it is

FURTHER ORDERED, that for the period January through June, 1993, the Exeter & Hampton Electric Company Fuel Adjustment Charge shall be a credit of \$.00637 per kWh; and it is

FURTHER ORDERED, that for the period January through June, 1993 the Exeter & Hampton Electric Company Purchased Power Adjustment Clause shall be \$.00734 per kWh; and it is

FURTHER ORDERED, that for the same period, Concord Electric Company and Exeter & Hampton Electric Company short-term power purchase (short-term avoided capacity and energy) rates for Qualifying Facilities (QF's) shall be as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Energy Rates On Peak	3.65 cents per kWh
Off Peak	2.62 cents per kWh
All Hours	2.97 cents per kWh
Capacity Rate	\$0.53 per kW-year;

and it is

FURTHER ORDERED, that Concord Electric Company and Exeter & Hampton Electric Company file revised tariff pages in compliance with this order and bearing the appropriate annotation.

By order of the New Hampshire Public Utilities Commission this fourth day of January, 1993.

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NH.PUC*01/04/93*[74954]*78 NH PUC 6*Granite State Electric Company

[Go to End of 74954]

Re Granite State Electric Company

DR 92-208

Order No. 20,716

78 NH PUC 6

New Hampshire Public Utilities Commission

January 4, 1993

Order Approving Changes to Oil Conservation Adjustment and Fuel Adjustment Clause.

Appearances: David Saggau, Esq. for Granite State Electric Company; Thomas Frantz and James Cunningham for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On December 1, 1992, Granite State Electric Company (GSEC) filed tariff pages, testimony and schedules supporting changes to its fuel adjustment clause (FAC), oil cost adjustment (OC), and qualifying facilities (QFs) power purchase rates for the period January through June 1993. GSEC is requesting that the commission approve a FAC factor of \$0.00570 per kWh, an OC factor of \$0.00113 per kWh, and the following short-term avoided capacity and energy rates for QFs as follow:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

<i>Energy Rates</i>	<i>On Peak</i>	<i>Off Peak</i>	<i>Average</i>	
Subtransmission Distribution	\$0.02768		\$0.02238	\$0.02484
Primary Distribution	\$0.02973		\$0.02347	\$0.02637
Secondary Distribution	\$0.03078		\$0.02402	\$0.02716

<i>Capacity Rate</i>	<i>Capacity Payment</i>
Subtransmission	\$2.32 per kW-month
Primary Distribution	\$2.54 per kW-month
Secondary Distribution	\$2.66 per kW-month

The New Hampshire Public Utilities Commission (commission) held a duly noticed hearing at its offices in Concord on December 16, 1992 to review the FAC, OC and short-term avoided energy and capacity rates filed by Granite State Electric Company. At the hearing GSEC presented two witnesses, Lawrence J. Reilly, and Jeffrey Van Sant. There were no intervenors.

II. POSITIONS OF THE PARTIES

GSEC proposes to decrease its current FAC and OC factors based, primarily, on its estimate that GSEC's total fuel expenses for the first half of 1993 will be lower than GSEC's total fuel expenses incurred during the second half of 1992, and because the ratio of kWh sold to kWh purchased is projected to be higher during the first half of 1993 as compared to the second half of 1992. Exh. 1 at 6. GSEC believes the difference between the two periods is due to lower losses during the cooler first six months of the year and the timing of meter readings by New England Power Company (NEP) for sales to GSEC. Mr. Reilly stated that GSEC intends to study this trend in more detail and analyze what if anything can be done to mitigate the semi-annual swings. GSEC has included as part of its fuel costs NEP's accrual of \$112,500 per month to fund uranium enrichment facility clean-up costs that result from a provision in the recently enacted Comprehensive Energy Policy Act (Energy Act). These costs are an assessment on the domestic nuclear industry for costs incurred by the Department of Energy (DOE) to decontaminate and decommission uranium enrichment facilities. Under Section 1802(c) of the Energy Act, each domestic nuclear power plant is assessed its portion of the total annual costs needed to fund decontamination and decommissioning based on each utilities transactions with DOE for uranium enrichment, not to exceed \$150 million per year. NEP expects its 1993 assessment from the six nuclear units it has an ownership interest in to be \$1.35 million. Exh. 1 at 7. GSEC believes the costs are recoverable through the fuel clause as specified in the Energy Act, although the costs included in the filing are only estimates.

GSEC did not include a reconciliation of the business profits tax surcharge in the immediate filing due to the lack of complete actual data. It plans to reconcile the business profits tax surcharge in the next FAC/OC filing. GSEC also is including the pipeline demand charges NEP has and is incurring for firm transportation capacity with several interstate pipelines and

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TransCanada Pipelines, Limited (TransCanada). The gas is used for the Manchester Street Repowering Project. Pursuant to NEP's W-12 settlement agreement, NEP can bill immediately 50 percent of the costs through GSEC's fuel adjustment clause. Until the Manchester Street Repowering Project is completed, the other 50 percent is held in a deferred asset account. Exh. 1, at 18. GSEC claims the demand costs will be mitigated by assigning surplus transportation capacity to third parties, selling gas to third parties, and displacing residual fuel oil in its plants with natural gas. NEP's firm transportation service on TransCanada began November 1, 1992. For the upcoming FAC period, GSEC is including its share of the approximately \$5.8 million it expects to pay TransCanada from November 1992 through June 1993, as well as its portion of the demand charges NEP pays to Algonquin Gas Transmission for the pipeline lateral connecting Algonquin with Brayton Point No. 4. GSEC states that NEP has negotiated all of its firm capacity to four parties from November 1992 through October 1993 resulting in GSEC receiving

its share of the \$11 million in proceeds from the sales. In accordance with the Settlement in W-12, all the proceeds are treated as a credit to the fuel clause. The net effect on the FAC after the pipeline demand charges and minimum supplier charges are offset by the reassignments, delays and pipeline capacity reductions is a credit to NEP of \$1.9 million. GSEC gets approximately 3 percent of the credit.

Based on lowering the FAC by \$0.00257 per kWh from the current rate of \$0.00827 per kWh and the OC by \$0.00010 per kWh from the current rate of \$0.00123 per kWh, a residential customer using 500 kWh per month would see a bill reduction of \$1.34.

GSEC testifies that the short-term QF rates are consistent with past practices approved by the commission, although GSEC has for the first time in a few years included a short-term value of capacity, estimated at \$27 per kW-year, based on four NEP sales of short-term capacity. The same capacity value is used in the calculation of GSEC's Cooperative Interruptible Service (CIS) Program.

III. COMMISSION ANALYSIS

Based upon the record in this docket, the commission finds the FAC, OC and QF rates filed by GSEC, effective January 1, 1993, to be just and reasonable.

We support Staff's position that GSEC should more fully support its requests in future filings. We will direct GSEC to provide, in subsequent filings, the actual calculation of the billings by nuclear unit in which NEP has interests for funding the decommissioning and decontamination costs under Section 1802(c) of the Energy Act.

Our order will issue accordingly.

Concurring: January 4, 1993

ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that the Fuel Adjustment Clause factor for Granite State Electric Company (GSEC) for the period January through June 1993, shall be \$0.00570 per kWh; and it is

FURTHER ORDERED, that the Oil Cost Adjustment for GSEC for the period January through June 1993, shall be \$0.00113 per kWh; and it is

FURTHER ORDERED, that GSEC pay Qualifying Facilities for the period January through June 1993, the following:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

<i>Energy Rates</i>	<i>On Peak</i>	<i>Off Peak</i>	<i>Average</i>
Subtransmission Distribution	\$0.02768	\$0.02238	\$0.02484
Primary Distribution	\$0.02973	\$0.02347	\$0.02637
Secondary Distribution	\$0.03078	\$0.02402	\$0.02716
<i>Capacity Rate</i>	<i>Capacity Payment</i>		
Subtransmission	\$2.32 per kW-month		
Primary Distribution	\$2.54 per kW-month		
Secondary Distribution	\$2.66 per kW-month;		

and it is

FURTHER ORDERED, that GSEC file tariff pages in compliance with this commission Order no later than 15 days from the issuance date of this Order.

By order of the Public Utilities Commission of New Hampshire this fourth day of January, 1993.

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NH.PUC*01/05/93*[74955]*78 NH PUC 8*Public Service Company of New Hampshire

[Go to End of 74955]

Re Public Service Company of New Hampshire

DE 92-028

Order No. 20,717

78 NH PUC 8

New Hampshire Public Utilities Commission

January 5, 1993

Order Approving a Modification to the Letter Agreement between PSNH and the N.H. Technical College.

BY THE COMMISSION:

ORDER

On July 2, 1991, Public Service Company of New Hampshire (PSNH) and the Commissioners of the Departments of Transportation and Post Secondary Technical Education executed a Letter Agreement concerning PSNH incentive payments for energy efficient measures performed at the New Hampshire Technical College in Manchester; and

WHEREAS, the Letter Agreement included an estimate of \$86,278 for incentive payments; and

WHEREAS, in November, 1992, PSNH was notified that additional areas on campus could reasonably be retrofitted at an additional cost of \$27,817, for a total incentive payment of \$114,095; and

WHEREAS, the additional conservation measures appear to be in the public interest, and are consistent both with the original Letter Agreement and our order no. 20,626 issued October 9, 1992; it is hereby

ORDERED, that the modification to the original Letter Agreement approving an additional \$27,817, is approved.

By order of the New Hampshire Public Utilities Commission this fifth day of January, 1993.

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NH.PUC*01/05/93*[74956]*78 NH PUC 8*Concord Electric Company

[Go to End of 74956]

Re Concord Electric Company

Additional respondent: Exeter and Hampton Electric Company

DR 92-184
Order No. 20,718
78 NH PUC 8

New Hampshire Public Utilities Commission

January 5, 1993

Order Approving 1993 C&LM Conservation Charges.

BY THE COMMISSION:

ORDER

WHEREAS, on October 15, 1992, Concord Electric Company (CECO) and Exeter and Hampton Electric (E&H) (collectively the Companies) filed with the New Hampshire Public Utilities Commission (the commission) its 1993 Demand Side Management (DSM) Program Plan; and

WHEREAS, on December 22, 1992 the Companies and the staff filed with the commission a Stipulation and Agreement that resolves certain issues and defers certain other issues for further review in January 1993; and

WHEREAS, the resolved issues relate to the continued approval of five DSM programs that were approved in DR 91-158; and

WHEREAS, the deferred issues concern the Companies' request for approval of the two new DSM programs and relate specifically to: (1) the appropriateness of benefit/cost ratio thresholds; and (2) whether customer costs should be included in cost-effectiveness tests and, if so, how such costs should be calculated; and

WHEREAS, the Stipulation also recommends that the proposed conservation charge of \$0.00129 per kWh for CECO and \$0.00103 per kWh for E&H be made effective pending the resolution of the two issues reserved for January 1993; and

WHEREAS, at the hearing December 22, 1992, counsel for the Companies informed the commission that the benefit/cost ratio for the new Lighting Catalogue Program had been incorrectly calculated and that the correct figure appeared to indicate that said program was uneconomic; and

WHEREAS, the parties agreed that approval of the Lighting Catalogue Program be deferred

until resolution of the benefit/cost ratio issue in January 1993; and

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WHEREAS, the commission finds that the conditions described in the Stipulation, as amended orally to include the Lighting Catalogue Program issue, are in the public good; it is hereby

ORDERED that the proposed conservation charges for CECO and E&H be temporarily approved subject to final approval in January 1993.

By order of the Public Utilities Commission this fifth day of January, 1993.

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NH.PUC*01/05/93*[74957]*78 NH PUC 9*Connecticut Valley Electric Company

[Go to End of 74957]

Re Connecticut Valley Electric Company

DR 92-207

Order No. 20,719

78 NH PUC 9

New Hampshire Public Utilities Commission

January 5, 1993

Order Approving Changes to FAC and PPCA.

Appearances: Kenneth Picton, Esq., for Connecticut Valley Electric Company; Elaine Evans; The Honorable Raymond S. Burton; The Honorable Paul I. LaMott; Eugene F. Sullivan, III, Esq., for the Staff of the Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On December 1, 1992, Connecticut Valley Electric Company (CVEC) filed tariff changes to its Fuel Adjustment Clause (FAC), Purchased Power Cost Adjustment (PPCA), and the rates CVEC pays to its small power producers under Rate E, Short Term Power Rates, effective for the period January through June 1993. Supporting testimony and exhibits were filed December 3, 1992.

On December 11, 1992, Elaine Evans, co-owner of two small hydroelectric projects currently receiving payments under Rate E, filed a Motion for Intervention and requested permission to present testimony concerning issues of small power producers. Ms. Evans filed testimony on

December 15, 1992.

The New Hampshire Public Utilities Commission (commission) held a duly noticed public hearing at its offices in Concord on December 15, 1992 to review the FAC, PPCA and short-term avoided energy and capacity costs filed by Connecticut Valley Electric Company. At the hearing the commission heard testimony from Ms. Evans and four CVEC witnesses: Robert J. Amelang, C.J. Frankiewicz, Stephen W. Page and David W. Carbon. The commission also received public comment in support of the small power producers from Executive Councilor Burton and Representative LaMott.

A Brief was filed by CVEC on December 29, 1992. Ms. Evans filed additional comments on December 30, 1992. Charles Diamond, a small power producer, filed comments on December 28, 1992.

II. POSITIONS OF THE PARTIES

A. M. Elaine Evans and Charles Diamond

On December 15, 1992, the Commission received prefiled testimony from M. Elaine Evans, the owner and operator of two small hydroelectric stations¹⁽¹⁾ in CVEC's franchise area in Piermont, New Hampshire, in which she raised concerns relative to her inability to obtain a long term rate contract from CVEC; and her lack of financial viability under the proposed and ongoing short term avoided cost rates. At a hearing held on December 15, 1992, Ms. Evans testified that she had been forced to negotiate with CVEC for over five (5) years over the terms of a long term contract, and that CVEC had never offered her a long term (fifteen (15) year) contract at CVEC's long term avoided cost.

On December 28, 1992, Charles Diamond, also the owner of a small hydroelectric facility in CVEC's franchise area, joined Ms. Evans in her concerns, and reiterated the statements relative to the inability to obtain a long term (fifteen (15) year) contract after being forced to negotiate with CVEC for over five (5) years and the projects inability to remain financially viable at short term avoided costs.

Both requested relief in the form of a long term contract from CVEC that would allow them to remain in operation.

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Subsequent to the hearing in this matter, both Ms. Evans and Mr. Diamond presented the Commission with information which suggests that CVEC acted in bad faith in its dealings with both small power producers (SPPs) by knowingly violating the language, spirit and intent of the Commission's decision in *Re Public Service Company of New Hampshire*, 73 NH PUC 117 (1988) (hereinafter Report and Order No. 19,052). We will not consider this information for the purposes of this Report and Order or the information set forth above in Mr. Diamond's position because CVEC has not had an opportunity to respond to either. We will address, however, Mr. Diamond's request for relief.

B. CVEC

CVEC, in oral testimony in response to Ms. Evan's testimony, spoke of an RFP (Request for

Proposals) program and attempts to negotiate a contract with Ms. Evans, but admitted that it never offered Ms. Evans a standard, fifteen (15) year contract at its Commission approved, long term avoided cost rate, and that it had no standard contract available to SPPs at Commission approved long term avoided cost for fifteen (15) years.

CVEC subsequently filed a brief in response to the allegations raised by Ms. Evans and allegations by the Commission Staff that CVEC had, and continued to violate the Commission's Report and Order No. 19,052 relative to SPPs using renewable resources to produce between 100 and 1000 Kilowatts of rated capacity.

In its brief, CVEC makes reference to Commission Report and Order 19,450 (the report and Order referred to is actually Report and Order 19,547 to which we will refer) and quotes language from that order referring to an RFP program, ongoing bidding and negotiations with QFs (Qualifying Facilities), and a standard offer contract for SPPs.

CVEC concludes from this language that both the Commission and its Staff were aware of its standard contract, and the fact that it was requiring SPPs between 100 and 1000 KW to negotiate contracts and approved of the practice.

CVEC asserts that the calculation of power costs were done in the same manner as previous FAC and PPCA filings. Only one minor change in methodology, modelling costs at CV inlet are now replaced with VELCO inlet, was made. CVEC states that the major driver of Central Vermont's energy costs for 1993 as compared to 1992 are the addition of two major SPPs located in Vermont. They are expected to add \$5 million of incremental energy expenses. CVEC supports the \$0.0046 per kWh increase to the current FAC factor of \$0.0005 per kWh based on: (1) the 1993 FAC will collect \$64,934 more undercollection than the previous FAC, which is expected to be undercollected by \$238,740 by the end of 1992; (2) CVEC's 1993 sales forecast is 2.7% less than 1992 sales forecast for the same period causing a decrease in the FAC revenues which is greater than the corresponding decrease in energy costs for the reduced sales; (3) Central Vermont Public Service Company's (CVPS) RS-2 energy charges are expected to be higher in 1993 than they were in 1992; and (4) purchases of the output from the New Hampshire/Vermont Solid Waste Project, which are flowed through directly to CVEC, are expected to be greater in 1993 than they were in 1992. CVEC states that purchases of sales from NH/VTSWP are considerably more expensive than purchases from CVPS. The FAC increase is partially offset by lower purchases expected from other SPPs. CVEC is proposing a FAC factor of \$0.0051 per kWh for 1993. A revision to the FAC may be necessary due to the rate design Stipulation that was approved by the commission on February 7, 1992. The Stipulation increases the seasonal on-peak rate effective January 1, 1993.

CVEC also supports a PPCA factor of \$(0.0022) per kWh, a credit. The proposed credit is less than the current PPCA credit of \$0.0038 per kWh due to CVEC's estimate that the 1993 PPCA will refund \$333,248 less overcollection than the 1992 PPCA has overcollected. Based on 10 months of actual data and two months of re-forecasted data, the 1992 PPCA overcollection is expected to be \$307,291 at the end of December 1992. Part of the increase is also due to a lower sales forecast

compared to the 1992 sales forecast. CVEC states that lower sales result in a higher PPCA, although the increase is partially offset by lower projected 1993 RS-2 capacity costs.

CVEC projects that the 1993 market value of short-term peaking capacity, based on a weighted average market purchase of price of gas turbine peaking units under short-term contracts in 1992 and 1993, is \$9.00 per kW-year. CVPS expects to have more than 60 MW of capacity in 1993 beyond its projected capacity requirements. Exh. 11 at 2.

The avoided energy costs are calculated on the basis of a 20 MW increment and decrement to load, modelled as 15 MW at 100% load factor to simulate 20 MWs at 75% load factor. CVEC is proposing the following short-term energy rates it pays SPPs under Rate E of its tariff:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

<i>Jan.-Apr.</i>	<i>May-Oct.</i>	<i>Nov.-Dec.</i>
Peak Hours	\$0.0274/kWh	\$0.0300/kWh
Off-Peak Hours	\$0.0219/kWh	\$0.0226/kWh

The Base Capacity Rate is \$0.25 per kW-month.

C. Staff

As was stated above, the Staff alleged that CVEC was, and is currently, violating Report and Order No. 19,052 by forcing SPPs, such as Ms. Evans, to enter into a full negotiating process to establish long term rates.

III. COMMISSION ANALYSIS

The issues before the Commission concerning the rates offered to QFs are, a) should we approve and allow the implementation of CVEC's modified short term avoided cost rate as part of the FAC/PPCA proceeding, and b) has, and is, CVEC violating Report and Order No. 19,052 relative to SPPs between 100 and 1000 Kw.

Given that the resolution of the second issue may affect the resolution of the first, we will address the second issue first.

In Report and Order No. 19,052 this Commission stated that all "[u]tilities will be required to make available long term standard offers for those [QFs] that have installed capacity of 100-1000 KW..." *Re Public Service Company of New Hampshire*, 73 NH PUC 117, 131. This requirement was based on the Commission's interpretation of the intent of LEEPA, and the fact that "transaction costs for individual negotiations can overwhelm any benefits of commitments for both the developer and the utility." *Id.* That is, the costs of negotiations could defeat the purpose of LEEPA by forcing the developer and the utility to negotiate the terms of a contract, thereby either increasing the cost of the power to the utility beyond its worth, or raising transaction costs so high that the developer could not afford to develop the project.

Based on these findings, the commission went on to established the following three criteria for these standard long term contracts. First, the rate must be equal to the projected cost of the avoidable resource(s) identified in the generating utility's long run integrated resource plan. Second, the term of the rate should be the lesser of 15 years or 3 years beyond the term of the QF's financing²⁽²⁾. Third, QF's may apply for front end loading. *Id.* at 132.

Based on the evidence presented to us at hearing and in brief, we find that CVEC has, and is,

violating Report and Order No. 19,052 by requiring SPPs such as Ms. Evans and Mr. Diamond to do exactly that which we sought to prevent, i.e., embark on a full negotiation process for a long term contract rather than establishing long term rates in accordance with the three stated criteria.

In its brief, CVEC cites our statements in Report and Order No. 19,547 as support for its position that the Commission approved of its process of RFPs and negotiations for QFs between 100 and 1000 KW. CVEC misinterprets our statements. Our comments relative to RFPs and negotiations applied only to those projects that were above 1000 KW or were powered by non-renewable resources. This is clear in light of the fact that we specifically referred to CVEC's standard long term contract for small renewable QFs. Our statement relative to standard contracts filed with the Commission which contain no rates or duration was not intended to modify Report and Order No.

Page 11

19,052; it merely recognized the fact that even standard contracts, such as those contracts with front end loading or shorter than 15 years in duration, may vary from one situation to another.

Thus, CVEC must offer both SPPs long term contracts and to accomplish this we order CVEC to negotiate long term contracts with both Ms. Evans and Mr. Diamond. The negotiations shall take place over the course of the thirty days following the date of this order, and Staff shall be made a part of the negotiations to ensure that all parties act in good faith, and to mediate as necessary. Until resolution of these matters is concluded, we will order CVEC to keep the rates paid to SPPs under Rate E at their 1992 level.

We also note that both Ms. Evans and Mr. Diamond have indicated that their projects are not financially viable at the proposed short term avoided cost rates. Furthermore, if CVEC had put a standard contract in place following our initial order requiring CVEC to make a contract available, the rates would have been significantly more favorable to the SPPs than the last filed long term avoided costs.

We will also require CVEC to file with the Commission a standard contract to comply with Order No. 19,052.

Based upon the record in this docket, the commission finds the changes to the FAC and PPCA filed by CVEC, effective January 1, 1993, to be just and reasonable. Our order will issue accordingly.

Concurring: January 5, 1993

ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that the Fuel Adjustment Clause factor for Connecticut Valley Electric Company (CVEC) for the period January through December 1993, shall be \$0.0051 per kWh; and it is

FURTHER ORDERED, that the Purchased Power Adjustment Clause for 1993 be a credit of

\$0.0022 per kWh; and it is

FURTHER ORDERED, that within a thirty day period commencing with the issuance date of this Order, CVEC meet with Ms. Evans and Mr. Diamond to negotiate a possible settlement concerning long-term rates; and it is

FURTHER ORDERED, that the short-term capacity and energy rates paid to Qualifying Facilities shall remain at 1992 levels; and it is

FURTHER ORDERED, that CVEC file tariff pages in compliance with this commission Order no later than 15 days from the issuance date of this Order; and it is

FURTHER ORDERED, that CVEC file with the Commission a standard contract to comply with Order No. 19,052.

By order of the Public Utilities Commission of New Hampshire this fifth day of January, 1993.

FOOTNOTES

¹ Between 100 and 1000 KW of rated capacity.

² To avoid any confusion, the intent of this section is to set 15 years as the maximum length of the standard contract available to any qualifying QF.

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NH.PUC*01/05/93*[74958]*78 NH PUC 12*Connecticut Valley Electric Company Inc.

[Go to End of 74958]

Re Connecticut Valley Electric Company Inc.

DR 91-189
Order No. 20,720
78 NH PUC 12

New Hampshire Public Utilities Commission
January 5, 1993

Rate Redesign, Phase II-B.

BY THE COMMISSION:

ORDER

WHEREAS, the New Hampshire Public Utilities Commission (Commission) in Order No. 20,385 in Docket DR 91-189 dated February 7, 1992, ordered Connecticut Valley Electric

Company ("CVEC") to reconfigure its rates as of January 1993 so as to reflect a peak to off-peak season price ratio of 1.6 to 1.0; and

WHEREAS, the previous seasonal price ratio of approximately 1.45 to 1.0 had been phased in as part of an earlier stage of rate redesign order; and

WHEREAS, on December 4, 1992, CVEC filed with the Commission its tariff NHPUC No. 5 - Electric modifying electric service rates in compliance with the rate redesign order; and

WHEREAS, the redesign causes no change in overall revenue or the allocations of revenue requirements among rate classes; and

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WHEREAS, related changes to the base capacity and energy charges, so as to make those base charges consistent with this phase of the redesign of retail rates and Commission approved power costs and purchased power and fuel adjustment charges, have been made to the tariff; and

WHEREAS, the Commission finds that the rates contained in CVEC's filing are in the public good; it is hereby

ORDERED, that CVEC implement its rates as described in the proposed tariff; and it is

FURTHER ORDERED, that CVEC provide all customers with a description of the proposed changes; and it is

FURTHER ORDERED, that CVEC file within 15 days of the issuance date of this order properly annotated compliance tariff pages.

By order of the New Hampshire Public Utilities Commission this fifth day of January, 1993.

=====

NH.PUC*01/06/93*[74959]*78 NH PUC 13*Phoenix Network of New Hampshire, Inc.

[Go to End of 74959]

Re Phoenix Network of New Hampshire, Inc.

DE 92-117

Order No. 20,721

78 NH PUC 13

New Hampshire Public Utilities Commission

January 6, 1993

Order *NISI* Granting Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire, and Granting Waiver of Certain Rules.

BY THE COMMISSION:

ORDER

On June 9, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Phoenix, Inc., since incorporated as Phoenix of New Hampshire, Inc. (Phoenix), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, Phoenix proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

WHEREAS, the Commission finds that Phoenix demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, Phoenix filed a timely and proper "Motion for Waiver of Accounting Rules," specifically NH Admin. Rules Puc 406.03 - Accounting Rules, 409 - Uniform System of Accounts (USOA), and 407.02 - 407.13 - Forms Required for All Telephone Utilities; and

WHEREAS, the Commission has previously found that granting similar waivers of certain rules is in the public interest, and granted a similar waiver to U.S. Sprint in Order No. 19,764, dated March 19, 1990, and to WilTel in Order No. 20,632, dated October 13, 1992; and

WHEREAS, Phoenix represents that it uses Generally Accepted Accounting Practices (GAAP); and

WHEREAS, the Commission finds that granting Phoenix the limited waiver of rules is in the public interest; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than February 2, 1993; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than Janu-

filed with the Commission on or before February 5, 1993; and it is

FURTHER ORDERED, *NISI*, that Phoenix's Motion for Waiver of Accounting Rules, received by the Commission on November 17, 1992, described above, and limited to the specifically referenced rules, hereby is granted; and it is

FURTHER ORDERED, *NISI*, that Phoenix hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions:

1. that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so-called competition docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis;
2. that Phoenix shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis;
3. that Phoenix shall file tariffs for new services and changes in existing services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;
4. that Phoenix shall notify the Commission of a change in rates to be charged the public within one day after offering service at a rate other than the rates on file with the Commission;
5. that Phoenix shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400, except those specifically waived above;
6. that Phoenix shall be subject to all reporting requirements contained in RSA 374:15-19;
7. that Phoenix shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission;
8. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;
9. that Phoenix shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, Phoenix shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis;
10. that Phoenix shall report revenues associated with each service on a monthly basis;
11. that Phoenix shall report the number of customers on a monthly basis;
12. that Phoenix shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow Phoenix to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

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FURTHER ORDERED, Phoenix file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this sixth day of January, 1993.

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NH.PUC*01/06/93*[74960]*78 NH PUC 15*AT&T Communications of New Hampshire Inc.

[Go to End of 74960]

Re AT&T Communications of New Hampshire Inc.

DE 92-228

Order No. 20,722

78 NH PUC 15

New Hampshire Public Utilities Commission

January 6, 1993

Order *Nisi* Approving AT&T 800 Gold Service, Options 1 and 2.

BY THE COMMISSION:

ORDER

On December 15, 1992 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition proposing a name change for AT&T 800 MEGACOM Plus and AT&T 800 READYLINE Plus to AT&T 800 Gold Service- Nodal and AT&T 800 Gold Service-Switched (the Gold services) respectively, and seeking to introduce Options 1 and 2 for the Gold services that would unbundle service guarantees and allow customers to select and pay for options that meet their specific telecommunications requirements.

WHEREAS, AT&T proposed the filing become effective January 14, 1993; and

WHEREAS, these changes have also been proposed for AT&T's interstate tariff under the Federal Communication Commission's jurisdiction, for effect January 2, 1993; and WHEREAS, the proposed tariff revisions unbundle telephone services for New Hampshire customers thereby expanding choice and fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than February 2, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than January 18, 1993 and is to be documented by affidavit filed with this office on or before February 5, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of AT&T Tariff PUC No. 1 - CUSTOM NETWORK SERVICES, are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Table of Contents	- 8th Revised Page 1
	- 3rd Revised Page 6
	- 2nd Revised Page 7
General Regulations	- 6th Revised Page 7
AT&T MEGACOM 800 and AT&T 800 Gold Service-Nodal Section 4	- 3rd Revised Pages 1, 2, 3, 4, 5
	- 2nd Revised Pages 6, 7
	- Original Pages 8, 9, 10
AT&T 800 READYLINE and AT&T 800 Gold Service-Switched Section 5	- 2nd Revised Pages 1, 2, 3, 4, 5
	- 1st Revised Pages 6, 7, 8
	- Original Pages 9, 10;

and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

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FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this sixth day of January, 1993.

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NH.PUC*01/12/93*[74961]*78 NH PUC 16*Atlantic Connections, Ltd.

[Go to End of 74961]

Re Atlantic Connections, Ltd.

DE 92-248
Order No. 20,723

78 NH PUC 16

New Hampshire Public Utilities Commission

January 12, 1993

Order Suspending Tariff Revisions for Rectification of Administrative Defects in Filing.

BY THE COMMISSION:

ORDER

The New Hampshire Public Utilities Commission (Commission) received tariff revisions dated December 15, 1992 from Atlantic Connections, Ltd. (ACL); and

WHEREAS, ACL's filing contained various technical deficiencies which delayed staff review of the filing; and

WHEREAS, ACL made good faith efforts to notify the Staff that it recognized deficiencies in its filing; and

WHEREAS, the Commission has not completed its review of ACL's filing given the delays cited above; it is hereby

ORDERED, that ACL's tariff pages:

- page 1 - First Revision
- page 9 - First Revision
- page 10 - First Revision
- page 12 - First Revision
- page 13 - First Revision
- page 14 - First Revision
- page 15 - First Revision
- page 23 - First Revision

are suspended; and it is

FURTHER ORDERED, that the Staff shall expedite review of ACL's above cited tariff revisions and submit its recommendation to the Commission for consideration; and it is

FURTHER ORDERED, that Staff take appropriate measures to assist ACL in addressing the

defects in the filing.

By order of the New Hampshire Public Utilities Commission this twelfth day of January, 1993.

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NH.PUC*01/13/93*[74962]*78 NH PUC 16*ECI Telephone Company, Inc.

[Go to End of 74962]

Re ECI Telephone Company, Inc.

DE 91-133

Order No. 20,724

78 NH PUC 16

New Hampshire Public Utilities Commission

January 13, 1993

Order Granting Request for Relief from Fines for Non-Compliance with COCOT Rules Due to Bankruptcy.

BY THE COMMISSION:

ORDER

On March 12, 1992, the New Hampshire Public Utilities Commission (Commission) issued Order No. 20,413 levying a \$2000 fine against John Buczynski as president of ECI Telephone Company, Inc. (ECI) pursuant to RSA 365:42 and a \$1000 fine against ECI pursuant to RSA 365:41 and revoked his franchise for failure to comply with N.H. Admin. Rules, Puc chapter 408; and

WHEREAS, on March 24, 1992, Mr. Buczynski submitted a letter to the Commission requesting relief from the fine imposed by the Commission in Order No. 20,413; and

WHEREAS, Mr. Buczynski pleaded for relief from the fine citing lack of personal and corporate assets; and

WHEREAS, Mr. Buczynski filed Chapter 7, on May 6, 1992, with the Federal Bankruptcy Court in Manchester, New Hampshire, case number 92-114161; it is hereby

ORDERED, that Mr. Buczynski's request for relief from the civil penalties imposed by Order No. 20,413 be granted due to Mr. Buczynski's personal bankruptcy status; and it is

FURTHER ORDERED, that Mr. Buczynski's and ECI's authority to provide COCOT service shall remain revoked until all outstanding debts owed to NET by ECI or Mr. Buczynski, are paid to NET; and it is

FURTHER ORDERED, that NET should follow its normal course of action regarding

collection of unpaid charges in seeking payment from Mr. Buczynski and ECI Telephone Co., Inc.; and it is

FURTHER ORDERED, that this docket be closed.

By order of the New Hampshire Public Utilities Commission this thirteenth day of January, 1993.

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NH.PUC*01/13/93*[74963]*78 NH PUC 17*Belleau Lake Corporation d/b/a Belleau Lake Water System

[Go to End of 74963]

Re Belleau Lake Corporation d/b/a Belleau Lake Water System

DC 92-231

Order No. 20,725

78 NH PUC 17

New Hampshire Public Utilities Commission

January 13, 1993

Order to Show Cause Why Utility and Its Agents Should Not Be Fined or Criminally Prosecuted.

BY THE COMMISSION:

ORDER

In the fall of 1991 Lakes Region Water Company (Lakes Region), a franchised public water utility, filed a petition with this Commission requesting authority to purchase a water utility located in Wakefield, New Hampshire, known as the Belleau Lake Water System; and

WHEREAS, Lakes Region subsequently withdrew its petition; and

WHEREAS, the Belleau Lake Water System was and continues to be an unfranchised public water utility subject to this Commission's jurisdiction; and

WHEREAS, Belleau Lake Water System's agent, one Ernest R. Belleau, Jr., was notified by the Commission Staff by letter dated October 30, 1992, after the petition by Lakes Region was withdrawn that Belleau Lake Water System must apply for a franchise from this Commission pursuant to RSA 374:22 and 26; and

WHEREAS, the staff also informed Mr. Belleau that Belleau Lake Water System could not charge rates until it obtained a franchise and a rate order from this Commission; and

WHEREAS, the Commission received a telephone response to this letter from Mr. Belleau

with no written follow-up; and

WHEREAS, on December 18, 1992, the Commission received a copy of a letter sent to the customers of the Belleau Lake Water System that the system would be abandoned in eight months and that homeowners must install their own water system and that the rate for water would be \$130.00; and

WHEREAS, Mr. Belleau has no authority to charge the customers of the Belleau Lake Water System any rates until they have been reviewed and approved by the Commission pursuant to RSA chapter 378; and

WHEREAS, Mr. Belleau cannot abandon the system without approval from the Commission pursuant to RSA 374:28; and

WHEREAS, Commission Order No. 20,711 was signed on December 23, 1992 setting a show cause hearing for January 13, 1993; and

WHEREAS, Mr. Belleau requested a continuance on January 4, 1993 in order to explore the possibility of selling the water system; it is hereby

ORDERED, that Ernest R. Belleau, Jr. appear before the New Hampshire Public Utilities Commission at its offices at 8 Old Suncook Road, Concord, New Hampshire at 10:00 A.M. on February 11, 1993 to show cause why he or the utility, or the corporation known as the Belleau Lake Corporation should not be subject to criminal or administrative proceedings pursuant to *inter alia* RSA 365:41 and 42; and it is

FURTHER ORDERED, that all customers be informed that they are not required to make any payments for water services from the Belleau Lake Water System because no rate has ever been approved by this Commission; and it is

FURTHER ORDERED, that all customers of the Belleau Lake Water System be informed that the water distribution cannot be abandoned without the permission of this Commission; and it is

FURTHER ORDERED, that Ernest R. Belleau, Jr. serve a copy of this order upon each of the utility's customers in hand, on or before January 28, 1993; and it is

FURTHER ORDERED, that this order supersedes Commission Order No. 20,711.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of January, 1993.

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NH.PUC*01/13/93*[74964]*78 NH PUC 18*Northern Utilities

[Go to End of 74964]

Re Northern Utilities

DE 91-209
Order No. 20,726

78 NH PUC 18

New Hampshire Public Utilities Commission

January 13, 1993

Petition for Waiver for Gas Main Replacement.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Northern Utilities (Applicant or Company) filed a request on November 21, 1991 seeking a waiver from PUC Rule 506.02 (b) which limits the installation and maintenance of pipelines under highway pavement to internal pressures of 200 pounds per square inch gauge (psig) and requires the pipe to be enclosed in a casing at highway crossings, and the waiver would be applicable to the installation of a 12 inch steel pipeline to be operated on Gosling Road in Portsmouth, New Hampshire; and

WHEREAS, on January 14, 1992 the Commission issued Order No. 20,368 granting the waiver subject to the following conditions: (a) Maximum operating pressure of the distribution gas main would be limited to 500 psig maximum unless otherwise approved by the Commission; (b) All welds would be radiographically inspected; (c) A full time on site inspector would oversee construction of the entire project; (d) A control valve would be installed at the new take station for the pipeline which would be remotely controlled and monitored by the Applicant's Ludlow, Massachusetts dispatch center; and (e) A 6 inch sand padding as depicted in the attached Figure I, would be utilized in lieu of a mechanical protective coating to protect against physical damage; and

WHEREAS, on June 2, and June 5, 1992 the Commission's Gas Safety Engineer, conducted on-site inspections of the project on Gosling Road and found that the inspector was not performing his duties in accordance with Order No. 20,368, and that the contractor was not installing a backfill material as specified in the aforementioned order and in accordance with 49 CFR §192.319(b)(2); and

WHEREAS, on June 19, 1992 the Gas Pipeline Safety Section, in accordance with NHPUC 511.06, issued a Written Formal Notice of Probable Violation (NOPV) of PUC Order No. 20,368, and 49 CFR §192.319(b)(2); and

WHEREAS, on July 16, 1992 Northern responded in writing and acknowledged its failure to adhere to the requirements of the order as specified in the NOPV, and explained the immediate corrective actions the Company had taken to complete the project in compliance; and

WHEREAS; the Commission, expects that all directives and specifications set forth in its orders be followed in their entirety; it is hereby

ORDERED, that Northern Utilities be fined \$500, to be payable on or before March 1, 1993, for failing to install a backfill material as specified in Order No. 20,368, and 49 CFR §192.319(b)(2); and it is

FURTHER ORDERED, that Northern Utilities be fined \$5000, for failing to ensure that a

qualified on-site inspector adequately oversee the construction of the project in accordance with Order No. 20,368, and it is

FURTHER ORDERED, that the \$5000 fine is hereby suspended subject to the Company providing written evidence, within thirty (30) days from the date of this order, to the Commission that management has taken definitive and generic action to address the issues of inspector qualification and inspector field performance relative to the construction of pipeline facilities; however, if the Company's inspection practices are not found to be adequate or in compliance with appropriate State and Federal standards within the next 12 months, the \$5,000 fine shall be reimposed.

By order of the New Hampshire Public Utilities Commission this thirteenth day of January, 1993.

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NH.PUC*01/20/93*[74965]*78 NH PUC 19*Exeter & Hampton Electric Company

[Go to End of 74965]

Re Exeter & Hampton Electric Company

DE 92-233
Order No. 20,727
78 NH PUC 19

New Hampshire Public Utilities Commission

January 20, 1993

Order *Nisi* Granting Authorization for a Crossing of Exeter & Hampton Electric Company Over Long Pond in the Town of Kingston, New Hampshire.

BY THE COMMISSION:

ORDER

On December 18, 1992 Unitil Service Corporation for Exeter & Hampton Electric Company (petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 for the licensing of an aerial electric line crossing over the Long Pond in the Town of Kingston, New Hampshire; and

WHEREAS, the original electric line crossing at this site was constructed in 1953 and subsequently replaced but never formally licensed; and

WHEREAS, the entire crossing consists of a single aerial #1/0 triplex secondary operated at 120/240 volts from Exeter & Hampton Electric pole 1148 on the southwest side of the Long Pond to Exeter & Hampton Electric pole 1961 on the northeast side of Long Pond, a span of approximately 405 feet; and

WHEREAS, a map and profile of the crossing are on file with this commission; and

WHEREAS, the electric line clearance as depicted on Exeter & Hampton drawing EAG0023 meets the requirements of the National Electrical Safety Code; and

WHEREAS, the electric line crossing provides electric service to a customer on the eastern side of the pond under the petitioner's franchise agreement with the Town of Kingston; and

WHEREAS, the Commission finds the above installation and maintenance is necessary to enable the petitioner to provide service, without substantially affecting the public rights in or above said waters, and, thus, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than February 16, 1993; and it is

FURTHER ORDERED, that the petitioner effect said notification by: (1) Causing an attested copy of this order to be published no later than February 1, 1993, once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Kingston area; (2) Providing, pursuant to RSA 541-A:22, a copy of this order to the Kingston Town Clerk, by First Class U.S. mail, postmarked on or before February 1, 1993; and (3) Documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before February 17, 1993; and it is

FURTHER ORDERED *NSI*, that license be, and hereby is granted, pursuant to RSA 371:17 *et seq.* to Exeter & Hampton Electric Company, 216 Epping Road, Exeter, New Hampshire, 03833 for the installation and maintenance of the aforementioned crossing of an aerial electric line over the Long Pond in the Town of Kingston, New Hampshire, effective February 19, 1993 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electrical Safety Code and other applicable codes mandated by the Town of Kingston.

By order of the New Hampshire Public Utilities Commission this twentieth day of January, 1993.

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NH.PUC*01/20/93*[74966]*78 NH PUC 20*Network Plus NH, Inc.

[Go to End of 74966]

Re Network Plus NH, Inc.

DE 92-004
Order No. 20,728
78 NH PUC 20

New Hampshire Public Utilities Commission

January 20, 1993

Order *NISI* Granting Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On January 6, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Network Plus, Inc., since incorporated as Network Plus NH, Inc. (NPNH), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, NPNH proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

WHEREAS, the Commission finds that NPNH demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than February 16, 1993; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than February 1, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before February 17, 1993; and it is

FURTHER ORDERED, *NISI*, that NPNH hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions:

1. that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so-called competition

docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis;

2. that NPNH shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis;

3. that NPNH shall file tariffs for new services and changes in existing services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;

4. that NPNH shall notify the Commission of a change in rates to be charged the public within one day after offering service at a rate other than the rates on file with the Commission;

5. that NPNH shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400, except those specifically waived above;

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6. that NPNH shall be subject to all reporting requirements contained in RSA 374:15-19;

7. that NPNH shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission;

8. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

9. that NPNH shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, NPNH shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis;

10. that NPNH shall report revenues associated with each service on a monthly basis;

11. that NPNH shall report the number of customers on a monthly basis;

12. that NPNH shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow NPNH to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, NPNH file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twentieth day of January, 1993.

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NH.PUC*01/21/93*[74967]*78 NH PUC 21*Tamworth Water Works, Inc.

[Go to End of 74967]

Re Tamworth Water Works, Inc.

DR 92-074
Order No. 20,729

78 NH PUC 21

New Hampshire Public Utilities Commission

January 21, 1993

Report and Order Approving Revised Stipulation Agreement and Rate Case Expense Recovery.

Appearances: Beverly LaCourse and Randy Lyman on behalf of Tamworth Water Works, Inc.; Eugene F. Sullivan, III on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

Tamworth Water Works, Inc. (Tamworth or the Company) filed for a permanent rate increase on May 8, 1992 and proposed to make changes to its tariff for providing water service to its customers in Tamworth, NH. The Company also filed for an emergency rate increase pursuant to RSA 378:9. In addition, the Company requested waivers from certain filing requirements as contained in N.H. Admin. Rule Part PUC 1603.03 (b). The waivers were granted and the tariffs were suspended by Order No. 20,486 (May 20, 1992) pending investigation of the merits of the requests, and a prehearing conference was scheduled for June 18, 1992.

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Three Tamworth customers appeared at the prehearing conference. Mr. Ken McDavitt requested and was granted full intervenor status. Mr. Nick Orgettas and Mr. Robert Ames were granted limited intervenor status. The Commission granted Tamworth an emergency rate increase of \$12,800 on an annualized basis, but authorized the Company to bill only one quarter

of that amount, or \$3,200, on July 1, 1992 in order to allow it to continue in operation during the pendency of the permanent rate case proceeding. The Commission directed that the emergency rate authorized was to be reconciled to permanent rates once such rates were finally established. The Commission granted the parties and Staff one week in which to propose an allocation of the emergency rates and to propose a procedural schedule, including a public hearing during the month of July, if possible. On June 25, 1992 the Staff filed a Motion for Allocation of Emergency Rate Increase and Adoption of Procedural Schedule with the concurrence of all parties. On July 6, 1992 the Commission issued Order No. 20,529 approving the recommended procedural schedule and the method of allocating the emergency rate increase.

On July 20, 1992 a duly noticed public hearing was held at the Tamworth Town House in Tamworth.

On August 28, 1992, the Staff filed written testimony of Mark A. Naylor regarding revenue requirement, rate base calculation, and other financial matters; Scott W. Harrold regarding cost of capital; James L. Lenihan regarding rate design; and Douglas W. Brogan regarding engineering issues and system improvements. Intervenor McDavitt did not submit testimony.

On September 3, 1992 Staff and the Company met to explore the possibility of reaching agreement on some or all of the issues in the case. Intervenor McDavitt did not attend these discussions.

On the day of the scheduled hearing on the merits, Tamworth and the Staff presented the original Rate Case Stipulation Agreement, dated September 10, 1992. Following the hearing, on September 29, 1992 the Commission issued Order No. 20,614 approving the Stipulation Agreement and setting new permanent rates for Tamworth. Since the issuance of that Order, the Commission received numerous comments and complaints regarding certain aspects of the rate design. After a review of those comments and complaints, including the solicitation of customer comments with respect to the revised Stipulation, Staff and the Company have presented the revised Stipulation to the Commission for approval. Said revised Stipulation is attached hereto as Exhibit 1.

II. REVISED STIPULATION AGREEMENT

The revisions to the original Stipulation Agreement raise the annual rate for water service to \$168.03 from the previously approved \$156.24 by changing the number of billable units from 114 to 106. Each billable unit is an equivalent residential customer, with large commercial customers charged as multiples of residential users. The Company's revenue requirement remains at \$17,812. The parties agree to the following specific changes:

Tamworth Inn is adjusted downward from 16 units to 10 units.

Knitting Factory is adjusted downward from 2 units to 1 unit, and is counted in the residential units.

Remicks General Store is adjusted downward from 2 units to 1 unit, and is counted in the commercial units.

III. RATE CASE EXPENSES

A. Tamworth Water Works, Inc.

Tamworth has submitted for recovery from its customers rate case expenses in the amount of \$9,917.43. The Company did not request a specific period for such recovery.

B. Commission Staff

Staff has recommended that \$8,324.93 be recovered in a surcharge to the original 59 billing accounts over a period of five years. This would result in a quarterly surcharge of \$7.06. Staff based this recommendation on exclusion of \$1,373.75 for review and analysis of bookkeeping records and \$218.75 for preparation of annual report, suggesting that these

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expenses were not related to the rate case. Staff further indicated that it would not be opposed to a somewhat shorter period for recovery, suggesting a four year surcharge of \$8.82 per billing account per quarter.

IV. COMMISSION ANALYSIS

The Commission finds the proposed changes to the rate design in the calculation of customers, or billable units, to be reasonable in the absence of individual water meters. Given the nature of unmetered rates, it is very difficult to arrive at a rate design that is equitable to all involved. We find that the additional information that was supplied to the Company and the Staff necessitate adjustments to enhance the equity of the existing rate design. The Commission notes that the provision of a metering plan by the Company during 1993, as anticipated in the original Stipulation Agreement, remains in place and will ultimately provide the most equitable means of pricing water service to the Tamworth customers. The revised Stipulation of the Staff and the Company, appended hereto as Exhibit #1, is therefore accepted and incorporated into this Report and Order.

The Commission accepts Staff's recommendations on the amount of rate case expense to be recovered from Tamworth customers. A four year recovery of these expenses appears to be reasonable in order to balance the on-going financial requirements of the utility with the fairly substantial increase in costs to its customers each quarter.

Our Order will issue accordingly.

Concurring: January 21, 1993

ORDER

In consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that the revised stipulation appended hereto as exhibit #1 is accepted; and it is FURTHER ORDERED, that Tamworth is authorized to recover \$8,324.93 in rate case expenses with a billing surcharge of \$8.82 per billing account over a four year period; and it is FURTHER ORDERED, that the Company file revised tariff pages to reflect the revised rates in the foregoing report for service rendered on or after the effective date of this Order.

By order of the New Hampshire Public Utilities Commission this twenty-first day of January, 1993.

ATTACHMENT

Exhibit No. 1

REVISED RATE CASE STIPULATION AGREEMENT

This Agreement is entered into this 15th day of January, 1993, by and between Tamworth Water Works, Inc. (Tamworth) and the Staff of the New Hampshire Public Utilities Commission (Commission), with the intent of resolving all of the issues that were raised or could have been raised by Tamworth and the Staff concerning revenues and rates in the above-captioned case.

I. INTRODUCTION

Tamworth filed for a permanent rate increase on May 8, 1992 and proposed to make changes to its tariff for providing water service to its customers in Tamworth, NH. The Company also filed for an emergency rate increase pursuant to RSA 378:9. The tariffs were suspended by Order No. 20,486 (May 20, 1992) pending review of the filings by Staff. A prehearing conference was scheduled for June 18, 1992.

Three Tamworth customers appeared at the prehearing conference. Ken McDavitt requested and was granted full intervenor status. At the prehearing conference, the Commission granted Tamworth's request for an emergency rate increase in the amount of \$3,200 for the quarterly billing on July 1, 1992, to be reconciled to the permanent rates as finally determined in this docket. On July 6, 1992 the Commission issued Order No. 20,529 approving a procedural schedule and the allocation of the emergency rate increase agreed to by the parties.

On August 28, 1992, the Staff filed written testimony of Mark A. Naylor regarding rate base calculations and other financial matters; Scott W. Harrold regarding cost of capital;

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James L. Lenihan regarding rate design; and Douglas W. Brogan regarding engineering issues and system improvements. Intervenor McDavitt did not submit testimony. Tamworth, Mr. McDavitt and the Staff have engaged in extensive discovery in anticipation of the hearing on the merits set for September 10, 1992.

On September 3, 1992, Tamworth and the Staff discussed all rate issues in order to explore the possibility of reaching agreement on some or all of the issues in the case. Though aware of the meeting, intervenor McDavitt did not attend the settlement conference. This Stipulation is the result of Tamworth's rate filing, all testimony, exhibits, data requests and responses and the settlement discussions between Tamworth and the Staff.

Following the hearing on the merits on September 10, 1992, the Commission issued Order No. 20,614 on September 29, 1992 approving the original Stipulation dated September 10. Since issuance of that order, however, the Commission and Staff have received comments, inquiries and objections to some aspects of the rate design changes. The Staff investigated those complaints and concluded that neither the Staff nor Tamworth were fully aware of a few important factors when developing the original Stipulation. This revised Agreement, therefore, has been developed by the Staff and Tamworth to address the identified problems with the original Stipulation, and is presented to the Commission for their approval.

II. COMPONENTS OF AGREEMENT

A. Cost of Capital

Tamworth and the Staff stipulate to a cost of capital of 10.00%, based on a capital structure of 100% debt. This amount is slightly lower than the amount proposed by Tamworth in its prefiled testimony.

B. Revenue Requirement

Tamworth and the Staff stipulate to a revenue requirement of \$17,812 as detailed on Attachment 1. The overall revenue increase stipulated to is \$14,503 or 438% over test year revenue of \$3,309. This increase is due primarily to vastly increased expenses and the considerable amount of new plant added in recent years.

Tamworth and the Staff stipulate to a rate base of \$30,454 for Tamworth as detailed on Attachment 2. This amount differs from that proposed by Tamworth, primarily because Tamworth bills in advance; the cash working capital allowance, therefore, is properly a deduction from rate base rather than an increase.

C. Rate Design

Tamworth has previously billed 59 customers each quarter, with its tariff specifying a fixed charge plus a charge for each fixture in all structures receiving service. Tamworth and the Staff stipulate to altering Tamworth's tariff so that each residential living unit is treated as one customer, and commercial customers are assigned an estimated usage and that usage is translated into an annual fee which is a multiple of "an equivalent residential user". Thus, if the estimated usage of a business or commercial customer were three times the average use of the residential customer, it would be assigned an amount equal to three times the annual fee for the residential customer. Tamworth's rate, therefore, will be \$168.03 annually or \$42.01 quarterly, based on a total of 106 equivalent customers. This total of 106 customers is comprised of the following:

70 Residential users: Each single family home or each apartment unit is assigned the equivalent of one user, regardless of size of living unit or number of inhabitants.

36 Commercial users assigned the following equivalents:

Tamworth Inn - 10 users

McCarthy Office units - 5 users

Bed & Breakfast facility; Town Garage - 3 users each

Center of Hope; Barnstormers Theater; Truck Garden - 2 users each

Remicks General Store; Town Hall; Town Library; Real Estate Office; Fire Department;

Historical Society; Town Offices; The Other Store; NYNEX Offices - 1 user each

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D. Metering

Tamworth and Staff agree that metering is appropriate for the system and will be installed within the next few years, after supply and storage improvements have been made. A detailed metering plan will be submitted by Tamworth no later than June, 1993. Upon installation of meters, customers will be responsible for maintenance and any necessary upgrades of interior

plumbing and will be charged on a usage basis for water consumption.

E. Capital Improvements

Staff and Tamworth stipulate to the following schedule for capital improvements: 1. Development by February, 1993 of an original, to-scale system map indicating whatever knowledge Tamworth has of mains currently in service including size, extent, side of road, approximate age, material, valve locations, and buildings served. 2. Submission of the following items by June, 1993:

- a. Supply study completed in relation to item 3.a. below
- b. Tank proposal including type, size, location, any necessary related improvements such as to the existing transmission main from the springhouse, and cost
- c. Proposed schedule for distribution system upgrades
- d. Proposed schedule for implementation of corrosion control
- e. Proposed schedule for construction of pump station
- f. Detailed customer metering plan 3. Completion of the following by July 1, 1994:
 - a. Development of source(s) of supply having a total safe yield of 50,000 GPD.
 - b. Installation of 20,000 gallons of storage.
 - c. Staff is willing to consider a lessening of the above 50,000 GPD and 20,000 gallon figures based on additional information such as meter readings, engineering studies, etc., but Tamworth will bear the burden of proof in requesting any such lessening.

Tamworth and the Staff also stipulate to step adjustments to be available to Tamworth in order to provide for the recovery of capital improvements listed above without the necessity of a full rate case. The parties agree to a total of no more than three (3) step adjustments over the four (4) year period following the issuance of a final order by the Commission in this docket.

F. Rate Case Expenses

Tamworth and the Staff stipulate that rate case expenses will be recovered in a surcharge to customers over a period of time to be determined. Tamworth will submit its detailed invoices for Staff review at the conclusion of this docket.

G. Emergency Rate Reconciliation

Tamworth and the Staff stipulate to a recoupment of the difference between the emergency rate authorized by the Commission and the permanent rate as outlined in this stipulation agreement. This amount of \$1,253 is to be recovered in full in the October 1, 1992 billing period, allocated equally among all customers. In addition, the Company will reconcile each customer's July 1 billing, which was based on the existing tariff, with the new fixed quarterly rate outlined in this stipulation agreement.

H. Franchise Area

Staff and Tamworth agree that Tamworth's franchise (service area) will be the village of Tamworth within the Town of Tamworth, with the maximum extent in any direction defined by the furthest building currently served along each road as shown on the 1963 system map now

being updated. Tamworth agrees that it

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is willing to serve existing customers and any new customers requesting service within this area. Once initial improvements due by July 1, 1994 are in place and in service, Tamworth may petition the Commission to extend the boundaries of its franchise area.

I. Tariff Provisions

Tamworth will submit revised tariff pages within 10 days of issuance of an order, to incorporate the following:

1. Revision of the service area as stated above.
2. Deletion of paragraph 2, which requires Commission approval for extension of service on existing mains.
3. Addition to paragraph 4 stating that where mains are on private property, the customer will be responsible for the service pipe from the main as indicated on the system map.
4. Addition to paragraph 5 of a statement to the effect that "customer shall be responsible to provide plumbing of sufficient quality and strength to accept a meter horn".
5. Deletion of paragraph 12, consisting of conditions for installation of individual booster pumps.
6. Revision of rate page to include, in addition to the other provisions described in this stipulation, a statement under "Terms of Payment" that bills will be rendered quarterly in advance.

J. Customer Notice

Tamworth agrees to provide notice to customers within seven business days of issuance of a final order in this docket, such notice to include 1) the immediate rate impact, 2) notification that system improvements will be made and rate case expenses authorized that will have additional rate impact, with some indication of amount and time frame, and 3) that questions or concerns may be directed to Tamworth or to the Commission, with phone numbers provided. Tamworth agrees to submit the proposed notice to Staff for approval before issuance.

III. IMPLEMENTATION OF AGREEMENT

Tamworth and the Staff stipulate that tariffs in compliance with the rate increase addressed above be filed no later than ten (10) days after the Commission's order approving this Stipulation.

IV. CONDITIONS

A. The making of this Stipulation shall not be deemed in any respect to constitute an admission by any party but instead is entered into for the purpose of resolving matters efficiently and without resort to litigation.

B. This Stipulation is expressly conditioned upon the Commission's acceptance of all of its provisions, without change or condition. If the Commission does not accept it in its entirety, the

Stipulation shall be deemed to be null and void and without effect, and shall not constitute any part of the record in the proceeding and shall not be used for any other purpose.

IN WITNESS WHEREOF, Tamworth Water Works, Inc. and the Public Utilities Commission Staff have caused this Stipulation to be duly executed in their respective names by their agents, each being fully authorized to do so.

TAMWORTH WATER WORKS, INC. Dated: 1-15-93 By: L.R. Lyman - Gen. Mgr.

N.H. PUBLIC UTILITIES COMMISSION STAFF Dated: 1-15-93 By: E.F. Sullivan III for Amy Ignatius

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NH.PUC*01/22/93*[74968]*78 NH PUC 27*Atlantic Connections, Ltd.

[Go to End of 74968]

Re Atlantic Connections, Ltd.

DE 92-248
Order No. 20,730
78 NH PUC 27

New Hampshire Public Utilities Commission
January 22, 1993

Order Approving Tariff Revisions.

BY THE COMMISSION:

ORDER

The New Hampshire Public Utilities Commission (Commission) issued Order No. 20,723, in DE 92-248, on January 12, 1993, suspending tariff revisions dated December 15, 1992 received from Atlantic Connections, Ltd. (ACL); and

WHEREAS, ACL's filing contained various technical deficiencies which have been rectified by ACL's revised filing, dated January 13, 1993; and

WHEREAS, the Staff, as directed by the Commission, reviewed ACL's second tariff revision and took appropriate measures to assist ACL in addressing the defects in the filing; it is hereby

ORDERED, that ACL's tariff pages:

- page 1 - First Revision
- page 9 - First Revision
- page 10 - First Revision
- page 12 - Second Revision in Lieu of First Revision

page 13 - Second Revision in Lieu of First Revision

page 14 - First Revision

page 15 - First Revision

page 23 - First Revision

are approved; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow ACL to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that ACL will file a compliance tariff within (15) fifteen days of this order in accordance with New Hampshire Admin. Code Puc Part 1600.

By order of the New Hampshire Public Utilities Commission this twenty-second day of January, 1993.

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NH.PUC*01/25/93*[74969]*78 NH PUC 27*Public Service Company of New Hampshire

[Go to End of 74969]

Re Public Service Company of New Hampshire

DE 92-080

Order No. 20,731

78 NH PUC 27

New Hampshire Public Utilities Commission

January 25, 1993

Order Granting Protective Treatment.

BY THE COMMISSION:

ORDER

On November 20, 1992, Conservation Law Foundation (CLF) filed its Second Preliminary Information Requests with Public Service Company of New Hampshire (PSNH), asking PSNH, in requests 1(b), 2(g), 4, and 5 to provide information relative to NOx reduction processes; and

WHEREAS, by motion dated December 24, 1992, PSNH requested a protective order limiting public access and a restriction on the parties' use of the data contained in the responses to the above referenced Information Requests; and

WHEREAS, the parties and Staff concurred in the motion; and

WHEREAS, PSNH's assertion that the responses to the above referenced Information

Requests contain confidential and proprietary material of a competitive nature establishes a prima facie showing that the information qualifies for exemption from the general provisions of RSA Chapter 91-A; it is hereby

ORDERED, that the Motion For a Protective Order filed by PSNH is granted ; and it is

FURTHER ORDERED, that the Commission expressly reserves its right to reconsider this order in light of RSA Chapter 91-A on its own motion or any party or member of the public during the evidentiary phase of this docket, should the documents be proffered as a part of the record.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of January, 1993.

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NH.PUC*01/25/93*[74970]*78 NH PUC 28*Fryeburg Water Company

[Go to End of 74970]

Re Fryeburg Water Company

DR 92-175

Order No. 20,732

78 NH PUC 28

New Hampshire Public Utilities Commission

January 25, 1993

Supplemental Order Approving Permanent Rates for Fryeburg Water Company Customers Served in New Hampshire.

BY THE COMMISSION:

ORDER

On September 21, 1992, Fryeburg Water Company (Company), a public utility engaged in the business of supplying water service in the State of Maine, as well as a limited area in the State of New Hampshire, filed with the New Hampshire Public Utilities Commission (commission) revisions to its effective tariff which if approved would cover the customers served in the Town of East Conway, New Hampshire; and

WHEREAS, on October 28, 1992, the New Hampshire commission suspended the proposed tariff pages for those customers served in East Conway which would have resulted in a 10.1% increase over current rates on file with the commission; and

WHEREAS, the Maine Commission, on January 6, 1993 issued an order approving a stipulation and revised schedule of rates for the customers in Fryeburg, Maine; and

WHEREAS, the approved rate increase would result in a rate increase of 8.5%, or an

increase in annual revenues of \$16,799.00; and

WHEREAS, this commission is satisfied with the deliberation and decision of the Maine Commission and finds it in the best interest of the approximately 40 New Hampshire customers served by Fryeburg Water Company; and

WHEREAS, this commission does note that the water company rate design contains a three step declining block rate and also contains a minimum charge which includes a consumption allowance; and

WHEREAS, in recent rate cases the New Hampshire commission has eliminated a declining rate block structure as well as an allowance in the minimum charge for those water companies served in this state and therefore puts the company on notice that staff, upon submission of future rate cases of Fryeburg Water Company, may request that in the absence of cost justification for declining block rate that the customers be charged a flat consumption rate and that allowances in the minimum charge be discontinued; it is hereby

ORDERED, that the approved rates reflecting the \$16,799.00 annual increase in revenues or 8.5% rate increase over existing rates, be approved for effect for those customers served in East Conway, New Hampshire; and it is

FURTHER ORDERED, Fryeburg Water Company submit water tariff pages for service rendered on or after the date of the Maine commission order; and it is

FURTHER ORDERED, that such revised tariff pages shall be annotated with the date and number of this order.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of January, 1993.

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NH.PUC*01/25/93*[74971]*78 NH PUC 28*Trans National Communications, Inc. dba Members Long Distance Advantage (MLDA)

[Go to End of 74971]

Re Trans National Communications, Inc. dba Members Long Distance Advantage (MLDA)

DE 92-007
Order No. 20,733
78 NH PUC 28

New Hampshire Public Utilities Commission

January 25, 1993

Order Granting Protective Treatment.

BY THE COMMISSION:

ORDER

On January 13, 1992, the New Hampshire Public Utilities Commission received a petition from Trans National Communications, Inc. (TNC) for authority to do business as a telecommunications utility in the state of New Hampshire pursuant to, *inter alia*, RSA 374:22 and RSA 374:26; and

WHEREAS, the staff of the New Hampshire Public Utilities Commission (Staff) and TNC have engaged in discovery through a series of data requests and data responses; and

WHEREAS, the Staff has requested specific financial information, and the public good

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requires review of the commercially sensitive information of TNC; and

WHEREAS, TNC, in its response of December 21, 1992, provided specific financial information, asserting that "the information is commercially sensitive"; and

WHEREAS, TNC, in its response of December 21, 1992, petitioned that confidential treatment be afforded the commercially sensitive information; and

WHEREAS, confidentiality of documents filed with public agencies is governed by RSA Chapter 91-A; and

WHEREAS, RSA 91-A:5 IV exempts from public disclosure, *inter alia*, "...confidential, commercial, or financial information..."; and

WHEREAS, it appears that the information submitted by TNC is commercially sensitive and subject to an exemption to RSA 91-A:5; it is hereby

ORDERED, that TNC's request for confidential treatment is granted to allow Staff review of the financial and otherwise commercially sensitive information; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Staff, or any party or member of the public, to reconsider this order in light of the standards of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of January, 1993.

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NH.PUC*01/25/93*[74972]*78 NH PUC 29*Generic Investigation into Natural Gas Transportation Service and Rates

[Go to End of 74972]

Re Generic Investigation into Natural Gas Transportation Service and

Rates

DE 91-149
Order No. 20,734

78 NH PUC 29

New Hampshire Public Utilities Commission

January 25, 1993

Report and Order Denying Motion of EnergyNorth Natural Gas, Inc. and Northern Utilities, Inc. for Rehearing of Order No. 20,700 Regarding Designation of Staff.

Appearances: Ransmeier & Spellman by Dom S. D'Ambruoso, Esq. and John T. Alexander, Esq. for Anheuser-Busch Companies, Inc.; McLane, Graf, Raulerson and Middleton by Jacqueline L. Killgore, Esq. for EnergyNorth Natural Gas, Inc.; LeBoeuf, Lamb, Leiby & MacRae by Paul Connolly, Esq. and Meabh Purcell, Esq. for Northern Utilities, Inc.; Devine, Millimet and Branch by Frederick J. Coolbroth, Esq. and Anu S. Mather, Esq. for Sprague Energy Corp.; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Business and Industry Association by Kenneth A. Colburn; Michael W. Holmes, Esq. of Office of Consumer Advocate for residential ratepayers; Amy Ignatius, Esq. for the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

An Order of Notice was issued by the New Hampshire Public Utilities Commission (Commission) in this proceeding on November 20, 1991, pursuant to a petition by Anheuser-Busch Companies, Inc. (Anheuser-Busch) for the purpose of commencing a generic investigation into natural gas transportation service and rates. Intervention was granted to the Business and Industry Association (BIA), Northern Utilities (Northern), EnergyNorth Natural Gas, Inc. (ENGI), Public Service Company of New Hampshire and Northeast Utilities Service Company (PSNH) and Sprague Energy Corp. (Sprague).

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On December 1, 1992, ENGI and Northern jointly filed a Motion to Designate Staff, which the Commission denied in Report and Order No. 20,700 (December 15, 1992). On January 4, 1993, ENGI and Northern jointly filed a Motion for Rehearing, to which Anheuser-Busch, Sprague and Commission Staff (Staff) individually objected on January 7, 1993.

II. *POSITIONS OF THE PARTIES AND STAFF*

A. *ENGI and Northern*

ENGI and Northern jointly filed a Motion for Rehearing, arguing that this case is "contested" under the meaning of RSA 541-A:16 and that because there were discussions with less than all parties to the case, those discussions were by their nature "*ex parte*."

B. *Anheuser-Busch*

Anheuser-Busch objected to the Motion for Rehearing, incorporating its earlier arguments in opposition to the original Motion to Designate Staff and argued that the Commission did not err in denying that motion, as Mr. McCluskey was not so committed to a particular result as to be unable to advise the Commissioners fairly and that there is no showing of actual bias on the part of the Commission. Further, Anheuser-Busch notes that ENGI and Northern raised for the first time on rehearing its argument that RSA 363:12-c governed this issue.

C. *Sprague*

Sprague objected to the Motion for Rehearing, also asserting that RSA 363:12-c was raised for the first time in the Motion for Rehearing as such is not properly before the Commission and that there has been no showing of actual bias on the part of the Commission.

D. *PSNH*

PSNH, though a party, took no position on the Motion to Designate or Motion for Rehearing.

E. *BIA*

BIA, though a party, took no position on the Motion to Designate or Motion for Rehearing.

F. *OCA*

OCA, though a party supporting the Motion to Designate at during a discussion of the Motion in the course of the hearings, took no formal position on the Motion to Designate or the Motion for Rehearing.

G. *Commission Staff*

Staff objected to the Motion for Rehearing, arguing that the case is not "contested" under the meaning of RSA 541-A and therefore, the prohibitions against *ex parte* communications do not apply. Further, there has been no showing of any lack of impartiality by the Commissioners.

III. *COMMISSION ANALYSIS*

We have reviewed the Motion for Rehearing and Objections filed by Anheuser-Busch, Sprague and the Staff. We do not find Northern and ENGI's arguments persuasive. For the most part they are arguments previously made in the original Motion to Designate Staff and rejected in Order No. 20,700.

As noted in the objections, this is a generic proceeding, investigating the policy considerations to be addressed when determining under what conditions natural gas should be made available to "non-firm" customers of New Hampshire's local distribution companies (LDCs). As such it is not "contested" under the meaning of the Administrative Procedures Act. Because this is not a contested case, discussions between staff members and some of the parties to this case are not "ex parte" communications.

We note, again, that the ultimate question regarding impartiality must focus on the impartiality of the Commissioners as decisionmakers. *Appeal of the Office of Consumer Advocate*, 134 N.H. 651, 660 (1991). There has been no showing that we as Commissioners have been anything less than fair and impartial,

or that we are unable to continue to operate in an impartial manner through the course of this proceeding. We reject the suggestion that allowing Mr. McCluskey to act as an advisor to the Commission will "irreparably taint" the impartiality of the Commission.

As noted in the objections filed by Anheuser-Busch and Sprague, arguments regarding the applicability of RSA 363:12-c were not contained within the original Motion to Designate Staff, and Northern and ENGI have not advanced any basis why that argument could not have been raised in the original Motion. As such, we will reject that argument as not properly raised. *Appeal of Campaign for Ratepayers' Rights*, 133 N.H. 480, 484 (1990). We deny, therefore, the Motion for Rehearing.

Our order will issue accordingly.

Concurring: January 25, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that the Motion for Rehearing of Order No. 20,700 filed by EnergyNorth Natural Gas, Inc. and Northern Utilities, Inc. regarding designation of Staff is denied.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of January, 1993.

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NH.PUC*01/26/93*[74973]*78 NH PUC 31*New Hampshire Electric Cooperative

[Go to End of 74973]

Re New Hampshire Electric Cooperative

DR 92-244

Order No. 20,735

78 NH PUC 31

New Hampshire Public Utilities Commission

January 26, 1993

Order Suspending Tariffs and Setting Prehearing Conference.

BY THE COMMISSION:

ORDER

On December 30, 1992, New Hampshire Electric Cooperative (NHEC or Cooperative) filed

testimony and exhibits supporting new tariff pages to its currently effective tariff to implement two new Standby and Supplemental Service rates for customers who have on- site generating unit(s) which are normally used to supply all or a portion of the customer's power and energy requirements; and

WHEREAS, NHEC has provided a cost study supporting five distinct cost components associated with standby service; and

WHEREAS, a thorough investigation is necessary prior to a decision by this commission on the merits; it is hereby

ORDERED, that the proposed tariff pages are suspended pending further review; and it is

FURTHER ORDERED, that a prehearing conference be held, pursuant to RSA Chapter 541-A:16, V, before said Public Utilities Commission at its offices in Concord, located at 8 Old Suncook Road, Building #1, in said state at 10:00 a.m. on February 11, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner shall notify all persons desiring to be heard by causing a copy of this notice to be published once in a newspaper having general circulation in that portion of the state in which operations are conducted, such publication to be no later than February 4, 1993 and shall be documented by affidavit filed with this office on or before February 11, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 541-A:17 and Puc 203.02, any party seeking to intervene in the proceeding shall submit a motion to intervene with a copy to the petitioner and commission on or before February 9, 1993; and it is

FURTHER ORDERED, that, pursuant to N.H. Admin. Rules, Puc 201.05, the commission hereby waives, in part, the fourteen day notification requirement of N.H. Admin. Rules, Puc 203.01(a); and it is

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of January, 1993.

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NH.PUC*01/26/93*[74974]*78 NH PUC 32*New England Telephone Company

[Go to End of 74974]

Re New England Telephone Company

DR 92-105

Order No. 20,736

78 NH PUC 32

New Hampshire Public Utilities Commission

January 26, 1993

Order Authorizing Interim Approval of Centrex Special Contract No. 92-4, with The Cheshire

Medical Center.

BY THE COMMISSION:

ORDER

On June 2, 1992, New England Telephone (NET or the company) petitioned for commission approval of a special contract to provide The Cheshire Medical Center with Digital Centrex Service; and

WHEREAS, the costs contained in this contract are based on the cost study methodology approved by the commission in docket DR 88-172, Report and Order No. 19,260, dated December 12, 1988, in which the commission found that NET had met its burden of proof that the proposed rates covered the costs of providing service; and

WHEREAS, the commission will reserve judgment on whether the methodology used in DR 88-172 is the most appropriate method for determining NET's costs of service until, as required in Report and Order No. 20,082, dated March 11, 1991, NET includes an analysis of the incremental costs of Centrex service when filing its updated Incremental Cost Study in 1993 (1993 ICS); and

WHEREAS, The Cheshire Medical Center has available competitive substitutes for Centrex service in the form of customer owned private branch exchanges; and

WHEREAS, it is likely that the service that is the subject of this special contract will fall under the heading of an emergingly competitive service which will receive more relaxed regulatory treatment and pricing flexibility; it is hereby

ORDERED *Nisi*, that New England Telephone's Special Centrex contract with The Cheshire Medical Center be approved; and it is

FURTHER ORDERED, that the rates for this contract be subject to review following the completion of the updated NET Incremental Cost Study to be supplied in 1993; and it is

FURTHER ORDERED, that NET provide an analysis comparing the rates in this contract to the costs identified in the 1993 ICS, citing the location in the 1993 ICS of each component used to determine the incremental cost of Centrex service, no later than 30 days after submission of the 1993 ICS; and it is

FURTHER ORDERED, that the parties are hereby put on notice that the commission will review NET's analysis of the costs identified in the 1993 ICS with the rates in this contract and, if after adequate opportunity to be heard, the commission finds that the contract rates are below their incremental costs, the commission will take appropriate action which may include modification or withdrawal of approval; and it is FURTHER ORDERED, that upon finding that the contract rates are below their incremental costs, NET stockholders will make up the deficiency between the rates charged and the incremental cost, for the period during which rates for this service did not recover their costs; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules PUC 203.01, the company cause an attested copy of this Order *Nisi* to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such

publication to be no later than February 8, 1993 and it is to be documented by affidavit filed with this office on or before February 25, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than February 23, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective thirty days from the date of this order, unless the commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of January, 1993.

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NH.PUC*01/26/93*[74975]*78 NH PUC 33*New England Telephone Company

[Go to End of 74975]

Re New England Telephone Company

DR 92-211

Order No. 20,737

78 NH PUC 33

New Hampshire Public Utilities Commission

January 26, 1993

Order Authorizing Interim Approval of Centrex Special Contract No. 92-5, with North Atlantic Energy Service Corporation.

BY THE COMMISSION:

ORDER

On October 29, 1992, New England Telephone (NET or the company) petitioned for commission approval of a special contract to provide North Atlantic Energy Service Corporation (NAESC) with Analog Centrex Service; and

WHEREAS, the costs contained in this contract are based on the cost study methodology approved by the commission in docket DR 88-172, Report and Order No. 19,260, dated December 12, 1988, in which the commission found that NET had met its burden of proof that the proposed rates covered the costs of providing service; and

WHEREAS, the commission will reserve judgment on whether the methodology used in DR 88-172 is the most appropriate method for determining NET's costs of service until, as required in Report and Order No. 20,082, dated March 11, 1991, NET includes an analysis of the incremental costs of Centrex service when filing its updated Incremental Cost Study in 1993 (1993 ICS); and

WHEREAS, NAESC has available competitive substitutes for Centrex service in the form of customer owned private branch exchanges; and

WHEREAS, it is likely that the service that is the subject of this special contract will fall under the heading of an emergingly competitive service which will receive more relaxed regulatory treatment and pricing flexibility; it is hereby

ORDERED *NISI*, that New England Telephone's Special Centrex contract with NAESC be approved; and it is

FURTHER ORDERED, that the rates for this contract be subject to review following the completion of the updated NET Incremental Cost Study to be supplied in 1993; and it is

FURTHER ORDERED, that NET provide an analysis comparing the rates in this contract to the costs identified in the 1993 ICS, citing the location in the 1993 ICS of each component used to determine the incremental cost of Centrex service, no later than 30 days after submission of the 1993 ICS; and it is

FURTHER ORDERED, that the parties are hereby put on notice that the commission will review NET's analysis of the costs identified in the 1993 ICS with the rates in this contract and, if after adequate opportunity to be heard, the commission finds that the contract rates are below their incremental costs, the commission will take appropriate action which may include modification or withdrawal of approval; and it is FURTHER ORDERED, that upon finding that the contract rates are below their incremental costs, NET stockholders will make up the deficiency between the rates charged and the incremental cost, for the period during which rates for this service did not recover their costs; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules PUC 203.01, the company cause an attested copy of this Order *Nisi* to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than February 8, 1993 and it is to be documented by affidavit filed with this office on or before February 25, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than February 23, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective thirty days from the date of this order, unless the commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of January, 1993.

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NH.PUC*01/26/93*[74976]*78 NH PUC 34*Excel Telecommunications, Inc.

[Go to End of 74976]

Re Excel Telecommunications, Inc.

DE 92-128
Order No. 20,738
78 NH PUC 34

New Hampshire Public Utilities Commission

January 26, 1993

Order *NISI* Granting Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On June 22, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Excel Telecommunications, Inc., since incorporated as Excel Telecommunications, Inc. of New Hampshire (Excel), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, Excel proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

WHEREAS, the Commission finds that Excel demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than February 23, 1993; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than February 8, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before February 25, 1993; and it is

FURTHER ORDERED, *NISI*, that Excel hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions:

1. that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so-called competition docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis;
2. that Excel shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis;
3. that Excel shall file tariffs for new services and changes in existing services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;
4. that Excel shall notify the Commission of a change in rates to be charged the public within one day after offering service at a rate other than the rates on file with the Commission;
5. that Excel shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400, except those specifically waived above;

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6. that Excel shall be subject to all reporting requirements contained in RSA 374:15-19;
7. that Excel shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission;
8. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;
9. that Excel shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, Excel shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis;
10. that Excel shall report revenues associated with each service on a monthly basis;
11. that Excel shall report the number of customers on a monthly basis;
12. that Excel shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow Excel to operate outside of the conditions set forth in appropriate Local Exchange Company

tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, Excel file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of January, 1993.

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NH.PUC*02/02/93*[74977]*78 NH PUC 35*Public Service Company of New Hampshire

[Go to End of 74977]

Re Public Service Company of New Hampshire

DSF 91-130
Order No. 20,739
78 NH PUC 35

New Hampshire Public Utilities Commission

February 2, 1993

Application of Public Service Company of New Hampshire for a Certificate of Site and Facility to Construct, Operate, and Maintain a 115 kV Electric Transmission Line from White Lake Substation, Tamworth, N.H. to Saco Valley Substation, Conway, N.H. Along with the Necessary Substation Terminal Additions in the Towns of Tamworth and Conway, N.H.

APPEARANCES: Public Service Company of New Hampshire by Christopher J. Allwarden, Esquire; Attorney General's Office by Leslie J. Ludtke, Esquire, Senior Assistant Attorney General, Environmental Protection Division on behalf of the public; Site Evaluation Committee by Vincent J. Iacopino, Esquire.

BY THE COMMISSION:

REPORT

I. INTRODUCTION

This matter involves the application of the Public Service Company of New Hampshire (Applicant) for a Certificate of Site and Facility under RSA Chapter 162-F¹⁽³⁾, for authority to construct, operate and maintain a 115,000 volt (115 kV), alternating current (60 Hertz), electric

transmission line in the Towns of Tam-

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worth, Madison, and Conway, New Hampshire (N.H.) and the Village District of Eidelweiss, N.H., along with the necessary substation terminal additions in the Towns of Tamworth and Conway, N.H. The line is planned to be constructed in an existing right-of-way adjacent to the existing transmission line. The Applicant states the line is required to ensure continued reliability and continuity of service to the Applicant's customers.

The proposed transmission line will commence at the Applicant's White Lake substation, located west of N.H. Route 16 in Tamworth, and proceed in a northerly direction for approximately 13.9 miles to the Applicant's Saco Valley substation located near the intersection of N.H. Route 113 and US Route 302, east of Redstone, in North Conway. The first 10.5 miles of the line will be constructed adjacent to the existing 34.5 kV line followed by a section of approximately 0.9 miles in length that will be double-circuited with the existing 34.5 kV line (i.e., the existing structures will be replaced with a single line of poles which will support both the 34.5 kV and the proposed 115 kV circuits). The final 2.5 miles will be constructed adjacent to the existing 34.5 kV line. The entire line is to be constructed on rights-of-way of widths ranging from 75 feet to 152.5 feet, with the exception of a 300 foot long section that is 50 feet in width. These rights-of-way are already owned by the Applicant and were cleared in 1987 under previous permits. Some reclearing of the right-of-way will be required due to resprout growth over the last four years.

The proposed facilities were included in the Applicant's 1991 and 1992 filings of "Long Range Plans for Bulk Power Facilities" which are on file with the Public Utilities Commission (Commission) and the Site Evaluation Committee (SEC) as required pursuant to RSA 162-F:4 (Exhibits 14 & 15). The Commission previously granted licenses to the Applicant, pursuant to RSA 371:17, for water crossings across the Pequawket River and the Saco River (See N.H. PUC DE 87-76; Order #18,703). Both licenses involved the construction of a 115 kV line adjacent to the existing 34.5 kV line and are part of this application. The Applicant also seeks a license to construct and maintain a transmission line across railroad crossings in Tamworth, Conway and two crossings in the Town of Madison, pursuant to RSA 371:24.

The Applicant maintains that the overall impact of the proposed line and associated substation additions are expected to be minimal, due in large part to utilization of the existing right-of-way corridor and substation locations. The line will maintain reliability of electric service to the North Conway area in accordance with its franchise thereby contributing positively to the future growth and development of the region. No unreasonable adverse effects on aesthetics, historic sites, air and water quality, the natural environment and the public health and safety are foreseen. Concerns about electromagnetic fields (EMF) which will be generated are addressed by the adoption of design objectives which will reduce field levels. Available alternatives to the construction of a new transmission line have been considered and were rejected by the Applicant as either uneconomical, having a greater potential environmental impact or inadequate as a long term solution to the increased electrical needs in the area.

This proceeding was conducted as a joint proceeding with the SEC and the procedural

history and the evidence presented is adequately set forth in the SEC findings and we incorporate them herein by reference.

There are two main findings which are the responsibility of the Commission under RSA 162-F:8 II. The Commission must find that the construction of the facility:

(a) Is required to meet the present and future need for electricity. A finding that the construction of the facility is required to meet the present and future need for electricity may be based upon a determination of need for capacity to generate electricity, need for a greater supply of energy, or need for more economic, reliable, or other wise improved sources of either capacity or energy. The commission shall consider economic factors when considering whether or not the facility will meet the present and future needs for electricity;

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(b) Will not adversely affect system stability and reliability factors.

RSA 162-F:8 II (a) and (b)

II. POSITION OF THE PARTIES

A. APPLICANT'S POSITION

1. NEED FOR POWER

Michael T. Smith, P.E., was the Applicant's main witness concerning the need for power, stability and reliability. In his testimony, Mr. Smith addressed the need for the line to meet the present and future electricity demands in the Central New Hampshire/Conway region. He also explained why the line is necessary to provide more reliable transmission capacity to serve electric customers in the area and the effects of the proposed line on system stability and reliability. In addition, he reviewed the economic and feasibility factors of various system alternatives which were considered by the Applicant as alternatives to the proposed line, consistent with the company's commitment to the integrated least cost resource planning concept.

Mr. Smith testified that in order to maintain a reliable system to supply their customers' electricity needs, the transmission network must be able to withstand various outage conditions while maintaining acceptable voltage levels to all customers without overloading other facilities. The Applicant has developed system design standards to achieve an acceptable design level of reliability for its transmission and distribution system. The Applicant's current design standards, entitled, "Guidelines for System Design" are attached to his testimony as MTS-1, (Exhibit 5, pg. 3).

In his testimony, he described the existing 115 kV transmission system in Carroll County (Exhibit 5, pg. 3) and how customers' electricity demands are served out of the Saco Valley and White Lake substations (Exhibit 5, pg 3). He further described existing system facilities that back-up the load normally fed from the Central Maine Power (CMP) system and the power supply arrangement with CMP (Exhibit 5, pg. 4). He identified the deficiency in the system's transmission capacity. The Applicant's system design guidelines specify, among other things,

that the 115 kV transmission system be designed, at time of system peak, to withstand the simultaneous loss of an autotransformer and a generator without loss of load, after allowing for load transfer, (Attachment MTS-1). Because of the power supply arrangement with CMP, system analysis must consider contingencies on the CMP system, as well as the PSNH system, which could result in isolation of the Saco Valley load. The loss of the Boise Cascade independent power generator in northwestern Maine coupled with the loss of the Surowiec 345/115 kV autotransformer have been identified as contingencies on CMP's system which will result in low transmission voltage on the CMP system and at the Saco Valley substation. Under this condition, the non-firm transmission arrangement allows CMP to disconnect PSNH's K1214 line from the CMP system. This results in the Saco Valley load being picked up on the two 34.5 kV lines out of the White Lake substation. The Applicant's system deficiency consists of the inability of these two existing lines to serve the Saco Valley load during periods of heavy electricity demand.

Mr. Smith explained that the heaviest loads historically have been experienced in the White Lake-Saco Valley area during periods of cold winter weather. These heavy loads are caused primarily by electric heating demands and the operation of the local ski areas which are heavily dependent on electric power for their snow making and other facilities. This is also the time of the year when interruption of power to customers has the greatest adverse impact. Due to voltage constraints, during periods of heavy customer load, the two existing 34.5 kV circuits between White Lake and Saco Valley no longer have the transmission capacity to serve area load upon the loss of the tie to CMP. These voltage constraints are related to line losses incurred while delivering power over these lines to Saco Valley from White Lake, a substantial distance. Approximately 41 megawatts of Saco Valley load can be supported on the 34.5 kV system from the White

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Lake substation. Loads in excess of this value cannot be supported and would have to be shed. For example, at projected peak winter loading conditions at Saco Valley in 1992/93, as much as 8 MW of load would have to be interrupted in order to alleviate voltage problems. Saco Valley substation peak winter load projections and estimates of load that would have to be disconnected are included in tables on pages 13 and 14 of the application and are revised in Exhibit 6. It is important to note that, due to the possible long duration of an autotransformer outage on the CMP system, interruption of Saco Valley load would likely continue for an extended period during peak winter load and ski activity times, well in excess of any reasonable acceptable customer outage. Future load growth in the Saco Valley-White Lake area will exacerbate the problem (Exhibit 5, pg. 6).

He further identified other contingencies which could result in conditions which would isolate the Saco Valley substation load. Loss of the Boise generator in Maine, by itself, could under some conditions result in marginal transmission voltage on the CMP system and at Saco Valley sufficient to cause the disconnection of the Saco Valley substation. Similarly, the failure of CMP's non-radial 115 kV line between its Raymond and Surowiec substations could under certain conditions result in marginal transmission voltage sufficient to trip Saco Valley off the CMP system. Under these conditions reliance must be placed on PSNH's 34.5 kV system out of White Lake. Again, at winter peak loads in the White Lake-Saco Valley region, these lines do

not have the transmission capacity to fully serve the Saco Valley load. Under certain contingencies the Applicant's guidelines specify that the 115 kV system may sustain some loss of load at time of system peak as long as the load lost does not exceed 30 MW and the duration of the outage does not exceed eight hours. These contingencies are of a type such that load can generally be restored within eight hours by line repairs or the use of a mobile 115/34.5 kV transformer. He specified that for the type of contingencies described earlier, the system needs to be designed to withstand these outages without loss of load because of the longer duration of the time needed to repair or replace the failed facilities involved. He testified that repair or replacement of a failed 345/115 kV autotransformer could take anywhere from 12 to 15 months (Exhibit 5, pg 6).

He also testified that the proposed 115 kV line between White Lake and Saco Valley substations would alleviate the existing deficiency in the system, since the deficiency is really one of inadequate transmission capacity to ensure reliability. The addition of a 115 kV transmission line connecting the White Lake substation to the Saco Valley substation will provide the needed reinforcement of the existing system. The new line provides a second 115 kV transmission feed into Saco Valley which will, in the near-term, serve as back-up to the K1214 115 kV feed from CMP in Maine. Under contingent conditions which result in the loss of the K1214 feed, the new 115 kV line will have sufficient capacity and would supply adequate voltage support to back-up the total load in the White Lake-Saco Valley region during periods of peak winter loading. Since the new line will allow the Applicant to serve all loads under these contingencies, which is not possible with the limitations of the existing system, the new line meets the need for reliable transmission capacity to serve the present and future electricity needs of PSNH's customers.

In addition, the proposed line will provide long term benefits for the Applicant's transmission system, as the Beebe River substation in Campton, N.H. is currently interconnected with the rest of the Applicant's electric system via two 115 kV lines. One of these lines (X178) runs north approximately 14 miles and then northwest for 20 miles to a point of intersection with two other 115 kV lines near Sugar Hill, N.H. The second line (E115/A111) runs south along the Merrimack River and terminates at PSNH's Webster substation in Franklin, N.H. With anticipated load growth in central New Hampshire, loss of either of these two lines could result in low transmission voltage at the Beebe River substation. The Applicant anticipates that new transmission facilities will need to be built within the next ten years to support future load growth in Carroll, Belknap

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and Grafton Counties. Installation of the proposed 115 kV line between White Lake and Saco Valley will complete a third transmission path into the Beebe River substation. This new east to west transmission interconnection will provide needed reinforcement for the Applicant's existing transmission lines that run from north to south (Exhibit 5, pg.7).

Mr. Smith further testified, that since the application was filed, the Applicant has prepared its 1992 load forecast. The purpose of the update is to clarify information previously submitted in pre- filed testimony and answers to data requests. His revised testimony (Exhibit 6) presents a revision of its Saco Valley substation load projects based on the 1992 forecast. A revised table

showing the projections of Saco Valley substation peak winter load and load which would have to be disconnected at peak loading during constraint conditions for the years 1992/93 through 1995/96 was submitted as Attachment MTS-2. Supporting loadflow results which depict the White Lake-Saco Valley area system conditions after the limiting contingency of the Bosie Cascade generator and the Surowiec 345/115 kV autotransformer were submitted as Attachments MTS-3a, 3b, 3c and 3d (Exhibit 6, pg 7).

In comparison to the projections contained in the tables in the application, the revised projections of the Saco Valley substation peak winter load are lower by one or two megawatts for the year 1992/93 through 1994/95. The revision also showed a reduction in the amount of Saco Valley substation load which would have to be isolated or disconnected at peak winter load conditions in each of the four years modeled. The revised projections show 8 megawatts of load would have to be shed to maintain acceptable system voltage conditions at peak winter loading. The previous information showed that approximately 13 megawatts of load would have to be shed to maintain acceptable system voltage conditions at peak winter loading (Exhibit 6, pg. 3).

Mr. Smith explained that the difference between the projections relates to the amount of available capacitors which were modeled in each case. The 1992 load projections have taken into account newly available capacitor additions to the Applicant's system, and an improved load factor at the service delivery point to the New Hampshire Electric Cooperative (COOP) which is a result of recent capacitor additions within the COOP's service territory (Exhibit 6, pg. 3).

He further explained that the revised projections, although lower, still demonstrate that the existing system is not capable of restoring all load to the Saco Valley substation during heavy winter loading periods under contingencies resulting in the loss of the K1214 feed from CMP. The results show that, under the winter peak scenario, a significant amount of the Saco Valley substation load would still have to be isolated for the system to operate with acceptable voltage conditions. (Exhibit 6, pg. 3).

2. SYSTEM STABILITY AND RELIABILITY

Mr. Smith testified that the new line will not have any adverse effects on either system stability or reliability. The proposed transmission line will maintain the existing stability in the area. Reliability is of course improved since the addition of a 115 kV line between the White Lake and Saco Valley substations will significantly improve the Applicant's ability to restore electric power to their customers in a minimal amount of time under the contingencies set forth.

He defined stability generally as that attribute of the system which enables it to develop restoring forces between the elements thereof, equal to or greater, than the disturbing forces, so as to restore a state of equilibrium between elements. An electric power system needs to be designed to be stable, so that the arbitrary disturbance or loss of a system element does not create an imbalance or loss of equilibrium in the system leading to the loss of other elements. A system should be designed so that a fault on a transmission line does not cause a generator to be inadvertently tripped off the system and result in a widespread outage of customers.

He further defined reliability, to be the ability of an electric power system to deliver necessary electric power to meet customer needs upon demand under both normal conditions and contingent conditions.

III. INTERVENOR'S POSITION

The Public Counsel and the limited intervenors questioned the attempts and efforts of the Applicant to develop a feasible alternative route. They also questioned whether the proposed transmission line was necessary at this time and the urgency for serving present electrical needs. They further questioned the reasonableness of the guidelines and whether the contingencies set forth could actually happen simultaneously. No expert witnesses were presented by Public Counsel or the intervenors.

A. PUBLIC COUNSEL

Public Counsel did not object to the construction and maintenance of the proposed facility. Counsel raised the concern about potential adverse health effects stemming from the use of the line to transmit large power flows from Maine to Beebe River, not about the limited operation of the line as a back-up to ensure system reliability (PC Brief pg. 5). Public Counsel also contended that the Applicant offered no evidence in its application, its public presentations, its responses to data requests, the adversarial hearings or its post-hearing brief, that the levels of current flow projected to occur in the transmission line pertain to any articulated need for the transmission line (PC Brief pg. 7).

B. LIMITED INTERVENORS

Theresa L. Kennett was formally granted limited intervenor status, and was permitted to make a statement to the Committee. At the adversarial hearings, the Chairman also allowed other members of the public who accompanied Mrs. Kennett to make statements for the record. Public statements were offered by Diane Biolota, Bayard W. Kennett, Maurice Geiger and Rep. Howard C. Dickinson. At the close of the adversarial hearings, Mrs. Kennett filed a post-hearing brief wherein she addressed a number of issues. The issues she raised which are relevant to this portion of the proceeding include whether the transmission line is required to meet the present need for electricity in the Mt. Washington Valley, whether the design guidelines are reasonable, (she argues the evidence suggests a lack of urgency), and whether the driving force is the power needs of the Mt. Washington area.

IV. COMMISSION ANALYSIS

RSA 162-F:8 II(a), requires the Commission to find that the proposed facilities are required to "meet the present and future demand for electric power". This has been characterized as the need for power issue.

The term "electric power" as used in the statute includes both energy (the ability to perform work over a period of time), and capacity (the capacity of providing energy at any given instant in time). In *Re: New England Electric Transmission Corporation*, 67 NH PUC 409, at page 415, the Commission addressed the words, "demand" and "power", where it stated:

"The two words in the statute which bear careful examination are "demand" and "power".

To utility and electrical engineers the two terms have meaning in that engineers must plan and operate electric systems to provide energy over periods of time to perform work

and provide the capability to supply energy at any instant in time when the system is called upon to deliver. To economists the term "demand" means the amount of a commodity that buyers will buy at each specified price in a given market over a given period of time. *Dictionary of Economics and Business, Nemmers*, p. 120 (1976). "Electric power" is the commodity which may have value to buyers either in the form of energy to perform work or the capability to deliver energy at a given instant in time. The statute in question does not specifically stipulate which view of the two terms is appropriate and we can surmise, as with most legislation which regulates in technical areas and which creates administrative

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agencies to perform the regulatory function, that we are to interpret the statute in practical terms in light of the requirements and needs of the industry to be regulated and its consumers. See 2A Sutherland, Statutes and Statutory Construction Sec. 49.05, City of Manchester v Boston & Maine Railroad (1953) 98 NH 52, 99 PUR NS 181, 94 A2d 552."

In this docket the Commission will view the terms "demand" and "power" in the engineering sense, as the comprehensive scheme envisioned by RSA 162-F is best served by such an interpretation. Accordingly, we construe the term "electric power" to include both energy and capacity.

A. NEED FOR POWER

The testimony and the evidence presented in the record of these proceedings clearly shows that the Applicant was aware that the transmission system in the Mt. Washington area needed future additions to stay in conformance with PSNH design guidelines. The Applicant indicated concern in the 1970's about adequately serving the increasing electrical loads in the Tamworth, Conway and Ossipee areas by proposing a 115 kV line in an application dated June 12, 1974 to the Siting Committee. The proposed 19.1 mile line would go from Tamworth to Conway, N.H. in a right-of-way occupied by a 34.5 kV transmission line. Moreover, as referenced in Michael T. Smith's testimony, almost 40 megavars of 34.5 kV capacitors have been installed in the Carroll County area to support load restoration at the Saco Valley substation. (Based upon the evidence, it appears that the Applicant has taken reasonable measures to avoid or delay the construction of the 115 kV line.)

The evidence establishes that the Saco Valley substation is a major facility supplying the Carroll County region. The Saco Valley substation is normally supplied with electric power from a 115 kV line of the Applicant interconnected to the CMP system. Transmission service from CMP is non-firm. Moreover, the contract provides that non-firm service is conditioned upon the availability of adequate CMP transmission capacity and further provides that the Saco Valley load may be switched to the Applicant's system for critical CMP contingencies or if otherwise required by CMP system conditions. In the event of the loss of the 115 kV feed from CMP, the Saco Valley load must be fed from the Applicant's existing system over the two existing 34.5 kV lines out of the White Lake substation. The two 34.5 kV lines do not have the capacity to fully serve the forecasted Saco Valley load during periods of heavy electricity demand in the region.

The Applicant's revised load projections show that the deficiency in the back-up capacity of the existing system could result in up to 8 megawatts of load isolation at Saco Valley in the winter of 1992/93, (Exhibit 6). Isolation of load results in the interruption of electric service to customers.

The Applicant's system design guidelines are deterministic in nature, requiring that the system be studied and designed on the assumption that the specified contingencies have occurred at peak loading conditions. A responsible public utility cannot and does not plan the reliability of its system to respond to past actual outages, but designs its plans to avoid future representative outages. In this manner predictability of system response and survivability is known.

If the Applicant were forced to be in a position of interrupting load on a long term basis, good and prudent utility practice would be violated. The proposed transmission line will provide reliability under the contingencies foreseen by the system engineers, and provide reliable electric service.

The proposed 115 kV transmission line will allow the system to withstand certain contingencies without loss of load after allowing for load transfer. These contingencies include the loss of a 345/115 kV autotransformer and a generator at the same time, or the loss of a non-radial line. The addition of the proposed 115 kV line will enable the Applicant to fully serve the forecasted peak winter loads at Saco Valley and meet its reliability standards in the late 1990's. Upon careful review of all the evidence in the record the Committee finds by a prepon-

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derance of the evidence that the need for power exists.

1. POWER ISSUE

Public Counsel attempts to limit the Applicant's use of the line to the open mode, based on the analysis that no need was demonstrated by the Applicant to require additional power needs in the area. The argument is made that, if the Committee were to find that the Applicant did not demonstrate a need for one of the methods of operation proposed, a certificate should not be issued authorizing that mode of operation.

The Commission has not in prior orders required that a utility demonstrate that every possible use or operation of a facility must be examined or approved before approval is given for a particular mode of operation. Good utility practice requires the utilization of equipment for purposes other than contingencies referenced in the system design guidelines. The Commission is required by the statute to consider a finding that the proposed facility is required to meet present and future demand for electric power and will not adversely effect system stability and reliability. The fact that a facility meets not only this criteria, but other uses as well, will cause further support for the approval of an application. The Commission accepts the Company's position that the 1992 load projections support the need for power for present and future electrical demands in the area, and that the closed mode of operation may have to be utilized to provide the necessary reliability and stability the system requires to avoid interruption of load or in the performance of day to day operations.

2. ALTERNATIVE SYSTEMS

The Commission has reviewed the 1992 forecast and finds that it supports the same conclusion as the projections, i.e., that the deficiency in the capacity of the existing system could result in up to 8 megawatts of load isolation at Saco Valley in the winter of 1992/1993, and even greater load isolation in later years. A number of other system alternatives to building a new 115 kV transmission line between White Lake and Saco Valley, were reviewed, considered, and are rejected:

a) *Additional generation*

Building additional generation capacity is not feasible, as the Applicant presently has excess generating capacity and the cost associated with building a generator in the area sufficient to meet the projected needs would have an installed capacity cost of approximately five to ten times the estimated cost of the proposed line (Exhibit 1, pg 24; Exhibit 5, pg. 10).

b) *Construction of alternative lines*

Two alternative 115 kV transmission lines that would have to cover longer distances and require acquisition and clearing of new right-of ways, are found not to be cost or environmentally effective when compared to the proposed transmission line that is located within an existing right-of-way (Exhibit 1, pg. 25; Exhibit 5, pg.9).

c) *Load management & conservation*

Load management and conservation programs have been reviewed. The evidence submitted does not support a conclusion that those programs realistically could achieve results that would forgo the need for the proposed transmission line. (Exhibit 5, pgs. 8-9; Exhibit 4, pg. 69; Exhibit 11, Ans. 22,23 & 36).

d) *Alternative back-up*

The issue was raised that the need for the proposed transmission line could be eliminated by providing back-up generation for the loss of the Bosie Cascade generator and the use of a spare autotransformer to back-up loss of the Surowiec 345/115 kV autotransformer. The Commission recognizes that such additions would have to be made to the Central Maine Power System over which the Commission has no authority. It is not common utility practice for a utility to provide improvements to the system of another utility unless the addition is

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required as a result of some reliability criteria being violated that the local utility created. Such facts do not exist in this case. The major companies of the New England Power Pool itself failed to justify the need of a spare autotransformer for the entire region (Post-hearing response to MDC, ATTACHMENT 1- TRANSMISSION STUDY ON THE NEED FOR A SPARE 345/115KV MOBILE TRANSFORMER IN NEW ENGLAND). There is no evidence in the record that such actions are feasible.

3. *REASONABLENESS OF THE DESIGN GUIDELINES*

The Commission has reviewed the Applicant's guidelines for system design and has found that guidelines fall well within good and prudent utility engineering standards. We see no evidence in this proceeding to alter that finding. We note that, the Applicant's reliability

guidelines closely mirror those of other major utilities (Exhibit 11, An. 29).

B. SYSTEM STABILITY AND RELIABILITY

The Commission has reviewed the evidence and finds that the proposed transmission line will not adversely affect system stability and reliability. On the contrary, the proposed transmission line will enhance reliability and stability factors by eliminating the unserved load conditions created by the possible loss of the Boise generator and the autotransformer at Surowiec or the non radial line to CMP. The system is better able to counter disruptive forces with the proposed line in service. A review of the record reveals that all of parties agreed that there is a need for reliability in the supply of power (PC brief pg. 5). The Commission so finds.

V. CONCLUSION

Based on the evidence presented, the Commission finds the proposed facility is required to meet present and future demand for electric power and will not adversely affect system stability and reliability or economic factors. Being bound by the findings of the SEC, the Commission finds that the proposed facility will not unduly interfere with the orderly development of the region and will not have unreasonable adverse effects on aesthetics, historic sites, air and water quality, the natural environment and the public health and safety. The Commission by the following order will issue a Certificate of Site and Facility to construct, operate and maintain a 115 kV electric transmission line from White Lake substation, Tamworth, N.H. to Saco Valley substation, Conway, N.H.

The Commission has previously approved the Applicant's petition for a license to construct and maintain a transmission line across the Saco River and the Pequawket Pond in the Town of Conway, N.H., in NHPUC Docket DE 87-76. A copy of the Commission order dated July 10, 1987 is included in the application, Appendix C.

The Commission approves the Applicant's request for a license to cross over two railroad properties, one located in Tamworth and the other in Conway, N.H., as described in Appendix K of the Applicant's original application and Appendix H of the Applicant's -Supplemental Information filing. In accordance with RSA 371:24, the Commission has determined that the \$500 administrative fee covering the two crossings in addition to a \$400 annual fee for each crossing is just and reasonable compensation to the railroad for the wire crossing license.

By letter filed January 28, 1993, the Applicant has notified the Commission that the two abandoned railroad beds described in the petition and located in the Town of Madison are owned by the Town and therefore do not come under the jurisdiction of this Commission.

Finally, the Commission will incorporate the permits and licenses of the Wetlands Board, Department of Environmental Services (Attachment B), and the Department of Transportation (Attachment C) in the Certificate of Site and Facility to be issued by the Commission.

Our order will issue accordingly.

Concurring: February 2, 1993

Upon Consideration of the foregoing report, the findings of the Bulk Power Supply Facility Site Evaluation Committee, the Wetlands Board Permit and the Department of Transportation Permit attached hereto as Attachment A, B and C, respectively, all of which are made part of this order, it is

ORDERED, that the Public Service Company of New Hampshire is authorized to construct, operate and maintain a 115,000 volt (115 kV) alternating current (60 Hertz), electric transmission line in the Towns of Tamworth, Madison and Conway and the Village District of Eidelweiss, N.H. along with the necessary substation terminal additions in the Towns of Tamworth and Conway, adjacent to the existing 35.4 kV right-of-way, being approximately 13.9 miles, and it is

FURTHER ORDERED, that the proposed 115 kV transmission line facility is of sufficient character and environmental impact to require a Certificate of Site and Facility; and it is

FURTHER ORDERED, that the requisite good cause exists to permit issuance of this Certificate of Site and Facility to permit construction of the proposed 115 kV (AC) transmission line; and it is

FURTHER ORDERED, that a Certificate of Site and Facility be, and hereby is, granted pursuant to RSA Chapter 162-F to Public Service Company of New Hampshire for the construction, operation and maintenance of a 115 kV transmission line and the necessary substation terminal facilities along an existing transmission right-of-way approximately 13.9 miles in length already owned by the Applicant between Tamworth and Conway, N.H.; and it is

FURTHER ORDERED, that all licenses and/or permits referred to in the foregoing report and attached findings of the Bulk Power Supply Facility Site Evaluation Committee, including the permits issued by the Wetlands Board under RSA Chapter 482-A, the of the Department of Transportation under RSA Chapter 231, and the Commission under RSA Chapter 371, are granted, as specified, thus constituting compliance under RSA Chapter 162-F:8 II that all state standards and requirements shall be met by the Public Service Company of New Hampshire as a condition of granting this Certificate of Site and Facility.

By order of the Public Utilities Commission of New Hampshire this second day of February, 1993.

FOOTNOTES

¹The application was filed on September 3, 1991 and thereby, is governed by the provision of RSA Chapter 162-F, in accordance with RSA Chapter 162-H:5.

ATTACHMENT A

APPLICATION OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE FOR A CERTIFICATE OF SITE AND FACILITY TO CONSTRUCT, OPERATE, AND MAINTAIN A 115 kV ELECTRIC TRANSMISSION LINE FROM WHITE LAKE SUBSTATION, TAMWORTH, NH TO SACO VALLEY SUBSTATION, CONWAY, NH.

Appearances: Public Service Company of New Hampshire by Christopher J. Allwarden Esquire;

Attorney General's Office by Leslie J. Ludtke, Esquire, Senior Assistant Attorney General, Environmental Protection Division as Public Counsel on behalf of the public. Site Evaluation Committee Counsel, by Vincent J. Iacopino, Esquire.

REPORT

INTRODUCTION

This matter involves the application of the Public Service Company of New Hampshire (PSNH or the Applicant) for a Certificate of Site and Facility under RSA Chapter 162-F, for authority to construct, operate and maintain a 115,000 volt (115 kV), alternating current (60 Hertz), electric transmission line in the Towns of Tamworth, Madison, and Conway and the Village District of Eidelweiss, New Hampshire along with the necessary substation terminal additions in the Towns of Tamworth and Conway, New Hampshire. The line is planned to be constructed in an existing right-of-way adjacent to the existing transmission line. The Applicant states that the line is required to

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ensure continued reliability and continuity of service to the Applicant's customers.

Procedural History

The application was filed on September 3, 1991. By letter dated January 14, 1992, the Applicant PSNH was notified that additional information was required before the Committee could acknowledge receipt of the application. On February 26, 1992, PSNH filed supplemental information with the Committee. The Committee reviewed the material and again notified PSNH that the application was incomplete primarily due to insufficient wetlands delineation along the proposed right-of-way. By letter dated March 26, 1992, PSNH filed the additional information required. The Committee accepted the completed application at its meeting of April 27, 1992.

As required by the provisions of RSA 162-F:7, the Committee, pursuant to an Order of Notice published in local papers, held a public informational hearing in Carroll County on May 28, 1992, at the Elementary School in Madison, New Hampshire. Members of the public were supplied with a Meeting Agenda and Information Handout prepared by the Committee. The Applicant distributed a printed written Public Information Sheet along with a pamphlet entitled, "Understanding Electric & Magnetic Fields".

At the informational hearing the Applicant presented five witnesses: Douglas A. Lord, PSNH, Chocorua District Manager; David J. Hickey, PSNH, Transmission Line engineer; David L. Plante, PSNH, Project Manager; Robert M. Heaton, PSNH, Transmission Substation Engineer; and Dr. Linda S. Erdreich, Bailey Research Associates.

Other participants in the proceeding included the Public Counsel, who represented the public interests throughout the proceeding as provided pursuant to RSA 162-F:9. No formal parties intervened as of that time, but members of the public participated by submitting questions in writing to the of the Committee who sought answers from the Applicant's witnesses.

Pursuant to a Procedural Order the Applicant filed its prefiled testimony on July 15, 1992. Thereafter, the Public Counsel, Staff of the Public Utilities Commission and Committee Counsel presented written data requests. The Applicant filed its written responses on August 6, 1992 with

additional responses on August 31, 1992. Supplemental written testimony was filed by the Applicant on September 8, 1992.

On August 14, 1992, limited appearance status was granted to Theresa L. Kennett.

On September 14 and September 15, 1992 public adversary hearings were conducted jointly by the Site Committee and the Public Utilities Commission as required by RSA 162-F:7. Because this application was filed under then existing provisions of RSA 162-F, the makeup of the Committee was as defined therein. Since this application, however, the Committee has been restructured to include the Director, of the Governors' Office of Energy and Community Services, the Director of Water Supply and Pollution Control Division, Department of Environmental Services, and all three Public Utilities as voting members. For purposes of transition, Jonathan S. Osgood of the Governors' Office of Energy and Community Services, Dr. Edward J. Schmidt, Director, Water Supply and Pollution Control Division, and Public Utilities, Bruce B. Ellsworth and Linda G. Stevens, were present at the hearings but did not vote on the application.

PSNH's APPLICATION

The original application and the supplemental application request a Certificate of Site and Facility to construct, operate and maintain a proposed transmission line that will commence at the Applicant's White Lake Substation, located west of N.H. Route 16 in Tamworth, New Hampshire and proceed in a northerly direction for approximately 13.9 miles to the Applicant's Saco Valley Substation located near the intersection of NH Route 113 and US Route 302, east of Redstone, in North Conway, New Hampshire. The first 10.5 miles of the line will be constructed adjacent to the existing 34.5 kV line followed by a section of approximately 0.9 mile in length that will be

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double circuited with the existing 34.5 kV line (i.e. the existing structures will be replaced with a single line of poles which will support both the existing 34.5 kV and the proposed 115 kV circuits). The final 2.5 miles will again be constructed adjacent to the existing 34.5 kV line. The entire line is to be constructed on rights-of-way of widths ranging from 75 feet to 152.5 feet, with the exception of a 300 foot long section that is 50 feet in width. These rights-of-way are already owned by the Applicant and were previously cleared. Some re-clearing of the right-of-way will be required due to re-sprout growth over the last four years.

The proposed facilities were included in the Applicant's 1991 and 1992 "Long Range Plans for Bulk Power Facilities" which are on file with the Public Utilities Commission and the Site Evaluation Committee as required pursuant to RSA 162-F:4. (Exhibits 14 & 15). The Applicant previously was granted licenses, pursuant to RSA 371:17 for water crossings over the Pequawket Pond and the Saco River (See Re: PSNH 72 NH PUC 215; Order #18,703). Both Licenses involved the construction of a 115 kV line adjacent to the existing 34.5 kV line and are part of this application.

The Applicant maintains that the overall impact of the proposed line and associated substation additions are expected to be minimal, due in large part to utilization of the existing right-of-way corridor and substation locations. The line will increase reliability of electric

service to the north country area thereby contributing positively to the future growth and development of the region. No unreasonable adverse effects on esthetics, historic sites, air and water quality, the natural environment and the public health and safety are foreseen. Concerns about electric and magnetic fields (EMF) which will be generated are addressed by the adoption of design objectives which will reduce magnetic field levels. Available alternatives to the construction of a new transmission line have been considered by the Applicant and rejected as either uneconomical, having a greater potential environmental impact or inadequate as a long term solution to the increased load growth in the area.

In its Application, PSNH included information to meet the requirements of State agencies and departments having jurisdiction over the construction of the transmission line. The Application included:

1. The proposed transmission line will cross the Saco River and Pequawket Pond in the Town of Conway, both of which are considered public waters for the purposes of licensing by the Public Utilities Commission. The Commission has previously licensed the crossings pursuant to RSA 371:17 for the proposed 115 kV line at these locations in Docket DE 87-76.

The Public Utilities Commission has jurisdiction under RSA 371:24 to grant or permit transmission lines to cross over railroad properties. There are four railroad crossings, one in Tamworth, one in Conway and two in Madison. Appendix K to the application identifies the four railroad crossings.

2. The Department of Transportation has jurisdiction under RSA 231:161 to grant a license or permit to erect, install and maintain a transmission line across a State highway. Appendix K to the application identifies six State highways which will be crossed by the proposed line.

- a. NH Route 16, Tamworth
- b. NH Route 113, Madison
- c. NH Route 113, Madison
- d. NH Route 153, Conway
- e. NH Route 113, Conway
- f. US Route 302, Conway

3. The New Hampshire Wetlands Board, has jurisdiction under RSA 482-A to grant a dredge and fill permit with respect to wetland areas affected by the construction of the transmission line. Appendix H to the Application identifies the location of the various surface water and wetland areas which will be crossed by the proposed line. Appendix E of the Supplemental Information supplied on February 26, 1992 sets forth a detailed narrative describing the location of wetlands and surface waters along the 13.9 mile corridor.

APPLICANT'S POSITION

The Applicant presented its case through five witnesses whose testimonies are summarized as follows:

Michael T. Smith, P.E., Engineering Manager, presented testimony addressing four areas: First, a brief overview of the transmission line project proposed by PSNH in this proceeding. Second, the need for the line to meet the present and future electricity demands in the Central Conway region with an explanation of the reasons why the line is necessary to provide more reliable transmission capacity to serve customers in the area. Third, the effects of the proposed line on system stability and reliability. Fourth, the economic and feasibility factors of various system alternatives which were considered by PSNH as alternatives to the proposed line, consistent with PSNH's commitment to the integrated least cost resource planning concept. (Exhibits 5, 6 & MTS-1 attachment).

David J. Hickey, P.E., Transmission Line Engineer, then testified: First, he addressed the proposed route for the new transmission line and the effect that the line and its proposed route will have on the orderly development of the region and aesthetic values. Second, he reviewed the alternative routes investigated by PSNH, and the feasibility of underground construction as an alternative to overhead construction. Third, he described the proposed line design and configuration, construction methods and maintenance requirements. (Exhibit 7 & DJH-1 attachment).

Robert M Heaton, P.E., Transmission Substation Engineer, testified: First, he reviewed the design, construction and maintenance aspects of the substation additions that will be necessary to accommodate the proposed transmission line at both the White Lake and Saco Valley substations. Second, he addressed the technical aspects of electric and magnetic fields as they relate to power systems facilities. Third, he explained the field management design techniques which PSNH proposes to utilize to reduce magnetic field levels associated with the proposed line. (Exhibit 10 & RMH 1,2 attachment).

Beatrice S. Hebert, Environmental Analyst, testified: First, she described the effects of the proposed transmission line project on historic sites, air and water quality and the natural environment, and second, impacts related to public health and safety, with the exception of public health concerns regarding electromagnetic fields. (Exhibit 8).

Linda S. Erdreich, PH.D., Epidemiologist, testified: First, she addressed the potential human health effects from exposure to electric and magnetic fields from power lines, including results of epidemiologic studies, controlled laboratory studies of humans, laboratory studies in whole animals and in isolated cells and tissues. Second, she presented a review of the recent research by groups of expert scientists and by scientific organizations and regulatory agencies. (Exhibit 9 pgs. 3-4).

During Dr. Erdreich's examination the following studies were reviewed and discussed : Health Effects of Exposure to Powerline- Frequency Electric and Magnetic Fields, Public Utility Commission of Texas, March 1992, (Exhibit 16); Electromagnetic Fields and the Risk of Cancer, National Radiological Protection Board. (Exhibit 17); Committee on Interagency Radiation Research and Policy Coordination letter dated 8/5/91. (Exhibit 18); SAB Report: Potential Carcinogenicity of Electric and Magnetic Fields, January 1992. (Exhibit 19); EPA, Evaluation of the Potential Carcinogenicity of Electromagnetic Fields, Review Draft. (Exhibit 20); Interim Guidelines on Limits of Exposure to 50/60 Hz Electric and Magnetic Fields, International Non-ionizing Radiation Committee of the International Radiation Protection Association.

(Exhibit 21); London et al., Exposure to Residential Electric and Magnetic Fields and Risks of Childhood Leukemia, American Journal of Epidemiology, 11/1/91. (Exhibit 22); and the Connecticut Academy of Science and Engineering Responses to Inquiry, Electromagnetic Field Health Effects, for the Department of Health Services, State of Connecticut, 4/1/92. (Exhibit 23).

Public Counsel cross-examined the witnesses concerning the need for the transmission line; the purpose of the line; reliability and stability factors and criteria; as well as the certainty or uncertainty of health effects from exposure to electromagnetic fields; potential health risks associated with exposure to electromagnetic fields; available alternatives; and, alternative available routes.

The witnesses also responded to questions propounded by Committee members and Counsel for the Committee.

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INTERVENOR'S POSITION

At the evening meeting of September 15, 1992, Theresa L. Kennett, limited intervenor testified (Tr pg. 100-109). The committee allowed public statements from the following individuals: Diane Biolota, Bayard W. Kennett, Maurice Geiger and Rep. Howard C. Dickinson, Jr. (Tr pgs., 83-100 & pgs. 109-111) all expressed concern about exposure to EMF.

Ms. Kennett, limited intervenor, questioned the Applicant's attempts and efforts to develop a feasible alternative route. She expressed concerns about EMF and the health effects of the proposed power line. In her written brief she questioned whether the proposed transmission line was necessary at this time as well as the urgency for serving present electrical needs. She further questioned the reasonableness of the company's guidelines and whether the three contingencies set forth would actually happen simultaneously. (Tr pgs. 103-104) All the intervenors strenuously stated that from their information the proposed transmission line may have an adverse effect on public health.

A number of petitions were received signed by concerned citizens in the Conway, Madison, Eaton and Albany areas noting their concern that EMF effects, while uncertain, may be potentially carcinogenic.

FINDINGS

On December 15, 1992 the Committee met in a public meeting in Concord, NH and undersigned members of the committee who were present, voted to make the findings required by RSA-162-F:8 and to transmit those findings to the Public Utilities Commission.

As stated in Re: *New England Electric Transmission Corporation*, 67 NH PUC 409 on page 413:

"The Commission must note that this is an administrative proceeding. While it bears some resemblance to civil judicial proceedings there are important differences. First, strict rules of evidence are not applied, especially hearsay rules. Second, most testimony and documentary will be expert testimony or exhibits based on the expertise of the witness sponsoring the exhibits. Third, the problems associated with drawing inferences

from eyewitness accounts of past behavior or events are virtually nonexistent in these type of proceedings.

The SEC and the Commission are almost always confronted with expert testimony from qualified witnesses. Uncertainty associated with such evidence arises because the witnesses and exhibits attempt to predict with reasonable certainty events which may or may not occur in the future or the effects of environmental phenomena over long periods of time where data are uncertain, conflicting or non-existent.***."

Recognizing these characteristics, the SEC and the PUC have tested PSNH's application for the proposed transmission facility to determine whether the facility should or should not be issued a Certificate of Site and Facility.

The following is a discussion of the Committee's findings:

The first issue is whether the requisite good cause under RSA 162-F: 6, II has been shown to permit the Committee to consider the Application. Pursuant to RSA 162-F:2 I(c), the Committee finds that the proposed 13.9 mile 115 kV transmission line should require a Certificate of Site and Facility because the Application warrants an investigation to determine if the placement of the proposed transmission line adjacent to an existing transmission line will produce any unreasonable adverse environmental impact. The aforementioned statute defines a Bulk Power Supply Facility, among other definitions, as a line in excess of 100 kilovolts (kV) which the Site Committee or Commission determines require a Certificate because of a substantial environmental impact. The Committee finds the proposed transmission line is one which requires a Certificate, in that it poses a substantial environmental impact due to its location.

There are two main findings which are the responsibility of the Site Evaluation Committee under RSA 162-F:8 I. The SEC must find that the proposed facility:

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A. Will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal legislative bodies, and

B. Will not have an unreasonable adverse effect on esthetics, historic sites, air and water quality, the natural environment and the public health and safety.

The SEC hereby finds that the proposed transmission line will not unduly interfere with the orderly development of the region and will not have an unreasonable adverse effect on esthetics, historic sites, air and water quality and the natural environment.

The SEC makes these findings after having considered the available alternatives and the environmental impact of the facilities presented by the Applicant, Public Service Company of New Hampshire (PSNH).

Several possible alternatives to the transmission line's location and the specific use of the existing right-of-way were discussed and studied. In addition to the proposed facility, the following alternatives were presented: (Exhibit 7 pq. 5).

Alternative A1: Relocated a portion of the line south of Route 113 near Eidelweiss, New

Hampshire. The total length of this route is approximately 7,900 feet and is approximately 2,900 feet (0.53 miles) longer than the existing route. Approximately 27.2 acres of land would have to be cleared and three or four additional stream and wetland crossings would be required. The total incremental cost to use this route was estimated at \$660,700.

Alternative A2: This alternative route departs from the proposed route approximately 600 feet south of Route 113 near Eidelweiss, New Hampshire, proceeds northwesterly for 1600 feet on the north side of Banfield Brook to a point near the southerly boundary of the gravel pit owned by Tilton Sand and Gravel. From that point the route turns and proceeds in a generally northeasterly direction for 1,900 feet to rejoin the existing corridor in the north end of Eidelweiss, New Hampshire. The total length of the route is approximately 5,700 feet and is approximately 1,600 feet (0.30 miles) longer than the existing route. Approximately 8.6 acres of land would have to be cleared. The line would be highly visible from Route 113 in this location. The total incremental cost to use this route was estimated at \$458,600.

Alternative B1: This alternative route departs from the existing corridor approximately 3,200 feet southwest of the Madison/Conway Town line and rejoins the corridor near the sewerage treatment plant off Route 113 in Conway, New Hampshire. The route follows a southwesterly arc crossing the north slope of Tasker Hill, then crossing Tasker Hill Road, passes to the north of Snake Pond and crosses Route 153. The route also involves at least three additional stream crossings and impacts a wetland area on the east side of Route 153. The total length of this route is approximately 15,200 feet (2.88 miles) longer than the existing route. Approximately 52.3 acres of land would have to be cleared. The total incremental cost to use this route was estimated at \$1,029,600.

Alternative B2: This alternative route departs from the existing corridor approximately 700 feet southwest of the Madison/Conway Town line and intersects the B1 route on the southwest side of Tasker Hill. The route then follows the same route as B1 rejoining the existing corridor near the sewerage treatment plant off Route 113 in Conway, New Hampshire. This route has similar environmental impacts to those of B1 with two additional possible stream crossings. The total length of this route is approximately 15,200 feet (2.88 miles) and is approximately 5,200 feet (0.98 miles) longer than the existing route. Approximately 52.3 acres of land would have to be cleared. The total incremental cost to use this route was estimated at \$1,119,400.

Alternative B3: The first part of this route follows either B1 or B2 to a point on the north side of Snake Pond Road where it continues in

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an arc easterly towards Conway Lake then northerly crossing Route 113 and the Saco River rejoining the existing corridor on the west side of Route 302 near the Saco Valley substation. The latter portion of this route attempts to follow a corridor that has been identified in New Hampshire Department of Transportation studies as a possible corridor for an eastern Highway Bypass around Conway. The final route for the highway has not been selected and its future is unknown. This route follows a long sweeping arc which results in expensive transmission line construction, since a majority of the structures required would be angle type structures as opposed to lower cost tangent type structures. This route also involves several additional stream

crossings and impacts a large amount of wetlands along Route 302. The length of this route is approximately 29,000 feet (5.49 miles) and is approximately 9,200 feet (1.74 miles) longer than the existing route. Approximately 100 acres of land would have to be cleared. The total incremental cost to use this route was estimated at \$2,225,000.

Public Counsel argued and in her brief maintains that the Applicant has not produced any evidence, evaluations or studies that alternative routes were considered by the Applicant with consideration to potential health issues. The Applicant's witness, Dr. Erdreich, stated, "I have concluded from reviewing the scientific data that the electric and magnetic field levels expected to occur will not have an adverse effect on public health." (Exhibit 9 pg. 9).

The alternative routes described above were evaluated on the basis of a number of relevant factors including environmental impact, land use, visual impact, construction, and economic factors. All of the alternatives involve acquiring and clearing new 150 foot wide rights-of-way and construction of necessary access roads. Each alternative route is longer than the portion of the existing route they would replace. There are no cost savings in employing any of the alternative routes. The SEC finds that each of the alternative routes to be significantly less favorable than the proposed route.

The SEC finds the evidence indicated that the proposed route utilizing the existing 34.5 Kv right-of-way is preferable to each of the alternatives that have been examined, based on consideration of economics, environmental concerns and impacts. An important factor bearing on this finding is that the proposed transmission line occupies and follows the existing right-of-way line for its entire length of 13.9 miles. Use of existing right -of-way for transmission facility additions is consistent with the Federal Energy Regulatory Commission's (FERC) policy guidelines for the siting of transmission lines. (Exhibit 7, pg. 3).

In addition to the alternative routes discussed above, the Applicant investigated the use of underground transmission facilities. The main deterrents to this alternative are the cost associated with underground construction and the environmental impact resulting from such construction. Underground construction of the entire transmission line would increase the cost of the project by approximately \$26,650,000. Underground construction does little to mitigate the magnetic exposure and its effects on public health. (Exhibit 7 pg. 7). Although the magnetic field exposure to people at the edge of the right-of-way or beyond would be fifty percent, approximately, of what it is with the overhead construction, there would be increased exposures for anyone who is standing in the immediate vicinity of the line or over the buried conductors. Based on the economical and environmental concerns the SEC finds that the proposed construction is preferable to underground construction. (Tr pgs. 123-124).

The Applicant also investigated system alternatives (Exhibit 5 pg. 8), including load management, alternative transmission, a distribution alternative, the addition of more capacitors and the addition of generation. Michael T. Smith, P.E. testified, based on the Applicant's experience, that a sufficient amount of load management could not be achieved to overcome the need for the new facility. For that reason and the fact that load management will not eliminate the need for transmission capacity for the region, the load management alternative was deemed too impracticable and not an acceptable alternative.

Two transmission alternatives were investigated. One was construction of a new 115 kV line

from Berlin, New Hampshire to the Saco

Valley Substation. This alternative would require the acquisition and clearing of approximately 35 miles of new right-of-way. The second transmission alternative was to construct a 115 kV line from Deerfield, New Hampshire north to the Saco Valley Substation, a distance of 60 miles. (Exhibit 5 pg. 9). Both alternatives were rejected because the potential environmental impacts of each alternative were significantly greater than those of the proposed route.

Public Counsel argued and in her brief maintains that the Applicant proposes to construct the 115 kV transmission line to provide back-up for its non-firm contract with Central Maine Power. She suggests that, if PSNH negotiated a firm contract with Central Maine Power, PSNH would have no need for a new transmission line or any other back-up facility as the reliability criteria pertaining to Central Maine Power's system would not permit it to disconnect the Public Service load. The record does not confirm Counsel's allegation that the Applicant proposes to construct the proposed transmission line to provide back-up for its non-firm contract with Central Maine Power. The SEC finds that the Applicant's objective is to ensure system reliability and stability.

A distribution system alternative was considered. This required the installation of a third 34.5 kV line between the White Lake and Saco Valley substations. The SEC finds that this alternative would only pick up approximately 5 megawatts of the Saco Valley load, and would not be an adequate technical solution to the existing problem of providing additional reliability to the area. (Exhibit 5 pg. 9).

The SEC finds that additional generating capacity in the area could delay the need for the proposed line if installed in sufficient quantity to assure reliability. However, there are no plans for additional generation coming on line because the Applicant has excess generation at this time, and the addition of generating facilities for the sole purpose of solving transmission problems is not a feasible alternative due to higher costs in the range of \$15-30 million dollars. (Exhibit 5 pg. 10).

The SEC finds, compared to the currently owned and cleared existing right-of-way from White Lake to Saco Valley substations, the alternatives considered are significantly more costly and likely to have much greater adverse environmental impacts.

The following is the basis for the above findings:

A. The proposed transmission line will not unduly interfere with the orderly development of the region, is a finding that must be made by the SEC.

On the issue of orderly development of the region, the Committee finds the single most important factor is the selection of an existing, already occupied utility corridor for the new line. The region has already developed and will continue to develop this corridor. Use of the existing right-of-way for the proposed line will be consistent with the established land use patterns in the area. The 115 kV transmission line itself will likely contribute to the future development of the region by providing more reliable electric service to the area and helping to meet the future load growth in the Carroll County and the Central New Hampshire region.

In considering the issue of orderly development of the region, the Committee is required to give "due consideration to the views of the Municipal and Regional Planning Commission and Municipal Legislative Bodies". The Tamworth Conservation Commission, the Conway Conservation Commission, the Madison Conservation Commission and the Board of Selectmen of the Towns of Madison, Conway and Tamworth were placed on the service list in this proceeding. Although these proceedings were duly noticed and publicized and the Commissions and Municipalities were on the service list in this docket, the SEC was not presented with any facts to indicate that the project would interfere with the orderly development of the region. In their letter of September 29, 1992 the Selectmen of the Town of Conway recognized "the need for a reliably consistent supply of electricity but urged that the committee "take whatever time and actions necessary to protect the residents from those electric and magnetic fields". By letter dated September 10, 1992, the Town Manager of Conway wrote to voice his concern with the

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proceedings moving quickly and concluded that the project should be tabled.

On the basis of the evidence submitted the SEC concludes and finds that the proposed line is consistent with the existing land use patterns and will not unduly interfere with the orderly development of the region.

B. The proposed transmission line will not have an unreasonable adverse environmental effect on esthetics, historic sites, air and water quality, the natural environment and the public health and safety, is another finding that must be made by the SEC.

Within the broader category of environmental impacts there are five specific categories of impacts which the SEC must address. These five categories are (1) impacts on esthetics, (2) impacts on historic sites, (3) impacts on air and water quality, (4) impacts on the natural environment and (5) impacts on public health and safety.

Before examining the five specific impacts it should be stated that the proposed facility will be located on or near existing transmission lines and electric substations. Secondly, every human activity has some effect on the environment and construction and operation of the proposed facility is no exception to the rule. However, the relevant inquiry under the statute is whether the proposed facility will have an unreasonable environmental impact. Whether the impacts are unreasonable depends on the assessment of the environment in which the facility will be located, an assessment of statutory or regulatory constraints, or prohibitions against certain impacts on the environment and a determination as to whether the proposed facility exceeds those constraints or violates those prohibitions. *Re New England Electric Transmission Corporation*, 67 NH PUC 910, pg 923.

(a) Esthetics Impacts

The SEC finds that the new line and terminal additions will be located within the existing rights-of-way and substation facilities. The majority of the line will be constructed adjacent to the existing 34.5 kV line and will present a minimum visual impact, with the overall appearance being reasonably compatible with the existing landscape and visual environment. The SEC finds there will be no unreasonable adverse effect of esthetic values.

(b) Impacts on Historic Sites

The SEC finds that the Applicant has investigated possible historic resources which might be impacted by this project. Working closely with the N.H. Division of Historical Resources it was determined that there are no known historical or archaeological sites within or adjacent to the proposed right-of-way. The SEC accepts these proofs and so finds.

(c) Impacts on Air and Water Quality

The Committee finds the applicant will accomplish all wetland construction in accordance with PSNH's Standards for Transmission Line Construction and comply with all requirements of the N.H. Wetlands Board and the Department of Environmental Services. Air quality impacts from the proposed line will essentially be limited to construction related dust and equipment and vehicle exhaust emissions, which will be localized and short term. The SEC finds there will be no unreasonable adverse effect on air and water quality.

(d) Impacts on the Natural Environment

The SEC finds that there will be no unreasonable adverse effect on the natural environment as the use of the existing right-of-way avoids any serious adverse effects which normally would be brought about by the destruction of habitat which is associated with the clearing of new right-of-way.

The SEC finds the proposed transmission line will not have any unreasonable adverse effect on esthetics, historic sites, air and water quality and the natural environment. The existing right-of-way location of the proposed line mitigated many of the issues which normally would be raised in this type of proceeding.

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(e) Impacts on Public Health and Safety

The issue concerning the effects of the transmission line and the exposure to electromagnetic fields (EMF) on public health and safety initiated most of the public comments in this proceeding. Public Counsel and members of the public expressed a real and genuine concern as to the potential risks on human health and public safety, mainly associated with EMF.

Dr. Erdreich testified, that the scientific evidence does not show that exposure to EMF from power lines or every day electrical devices results in the development of cancer or other adverse health effects. When asked specifically, Will EMF occur with the proposed power line? she replied, "electric and magnetic fields occur in the vicinity of any power line. I have reviewed the Electric and Magnetic Field Study included in Appendix J of the Application. Electric and magnetic fields presently exist in the vicinity of the line, and the proposed 115 kV line will contribute to these fields. Although there will be an increase in these fields, the increase in magnetic fields from the 115 kV line has been minimized because the engineers configured the line in a way that reduces magnetic field levels." (Exhibit 9 pg. 9).

The specific design considerations (Exhibit 10 pg 8) incorporated in the line design to minimize the EMF levels include the following:

1. The line will be built using single poles with conductors configured in a triangular

pattern. This single pole type construction is illustrated in Appendix E of the Application as Type WT-1. The triangular configuration is the effect of partial cancellation of the fields generated from each of the individual conductors. As the distance separating each conductor is decreased, the cancellation increases, thereby reducing the overall field levels. The proposed design minimizes this distance as much as possible and still maintains work clearances required by the National Electric Safety Code. Traditional H frame design would result in magnetic field levels 85% higher on the west edge of the right-of-way, although they would be 7% lower on the east edge.

2. The triangular design has a lower resultant field on the side with one conductor. The line is conducted so that the single conductor is always located to the side that is closest to the edge of the right-of-way. This reduces the magnetic field levels at the edge of the right-of-way by 10-13% compared to a configuration with the two conductors closest to the edge of the right-of-way.

3. The conductor heights of all conductors will be five feet higher than the minimum required by the national Electric Safety Code. This has the effect of increasing the distance between the edge of right-of-way and the source of the fields, thereby reducing the magnetic field level at the edges of right-of-way. This will reduce the magnetic field levels by 10% on the west side of the right-of-way and up to 14% in certain line sections on the east side of the right-of-way, compared to levels at a conductor height of 20 feet (NESC minimum).

4. In the section of line which passes through the Town of Conway where the 115 kV line and the 34.5 kV line are double circuited on the same pole (line section 8-9), the 115 kV phases are placed on three of the top crossarms because at peak load conditions the current in those conductors will be higher than the currents in the 34.5 kV conductors. This configuration will minimize the field levels at the edge of right-of-way because the conductors generating the higher fields will be farther away. This will reduce the magnetic field on the east side of the right-of-way along this section of line by 36% compared to conventional design placement of the 115 kV circuit conductors entirely of one side of the pole.

5. The arrangement of the new 115 kV conductors is designed to maximize the

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cancellation effects with the adjacent 34.5 kV line. This involved investigating the geometry and phase relationship of each line as well as studying the projected coincidental load levels of the lines over time. The proposed phase arrangements for each section of the right-of-way corridor are illustrated in Appendix B of the Application. the proposed arrangements will reduce magnetic field levels by as much as 3.8 milligauss as compared to standard designs.

Based on Dr. Erdreich's review, she concluded from reviewing the scientific data, that the electric and magnetic field levels expected to occur will not have an unreasonable adverse effect on public health. (Exhibit 9 pg. 9).

Dr. Erdreich was extensively cross-examined by Public Counsel and members of the

Committee regarding the extent of the scientific community's view of the effect of EMF. (Tr pg. 185-187).

The Applicant agreed to supply two new epidemiology studies made in Sweden when they became available. After hearings closed the studies were presented as post hearing information. In the summary section of the study, "Magnetic Fields and Cancer in People Residing Near Swedish High Voltage Power Lines", it states, that the results of the study provide more support for an association between magnetic fields and cancer development than against it. The Electrical Power Research Institute comment (also presented as post hearing information) concerning the study is: "This vigorously conducted study of childhood and adult cancer provides important new information. It used a design involving only a population of people who lived relatively close to transmission lines, a first for EMF epidemiologic studies."

The results of this study do provide further evidence that there may be a true association between exposure to the magnetic fields around AC power lines and risk of childhood cancer. However, in the absence of more firm evidence that magnetic fields are indeed a cancer causing agent, and in the absence of a more convincing causal link between the magnetic fields and the tumors in question, the SEC believes that a moratorium on power lines is premature and unwarranted at this time.

The Committee does, however, have the responsibility of weighing this potential but unproven risk of cancer in the context of each individual application. In a similar case, *New England Electric Transmission Corp.*, 67 NH PUC 910 pg. 922, this Committee Stated:

"Accordingly, we must undertake an assessment of the risks of unreasonable adverse health effects and make a judgment based on the record and the present imperfect state of human knowledge."

Specifically the Committee must consider whether or not reasonable and appropriate consideration has been given to this potential but unproven risk.

Thus the Committee has examined the scientific evidence presented to it regarding the health effects of magnetic fields, the measures taken by the Applicant to minimize magnetic field levels at the edge of the right-of-way, and construction alternatives presented in the record, the aim of which is to minimize human exposure to magnetic fields. Based on the evidence the Committee finds the proposed power line does not pose an unreasonable adverse effect on public health and safety.

The SEC finds that the evidence does not support a finding that unreasonable adverse effects will be produced by the proposed transmission line. Accordingly the SEC finds that the electromagnetic effects of the proposed line will not have an unreasonable adverse effect on the public health and safety.

CONCLUSION

The Site Evaluation Committee finds and determines that:

1. The proposed facility is for the construction, operation and maintenance of a 115 kV electric transmission line to be constructed adjacent to an existing 34.5 kV transmission line in an existing right-of-way. The reality of the situation is that the existing right-of-way will now be burdened by two transmissions lines. In light of all the circumstances, this facility has an

environmental impact that

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required an investigation for a Certificate of Site and Facility.

2. The proposed facility consisting of a 13.9 mile 115 kV AC power line to be constructed, operated and maintained in the existing 34.5 kV corridor extending from the White Lake Substation to the Saco Valley Substation, and the associated substation facilities:

a) will not unduly interfere with the orderly development of the region.

b) will not have an unreasonable adverse effect on esthetics, historic sites, air and water quality, the natural environment and the public health and safety.

The undersigned members of the Bulk Power Supply Facility Site Evaluation Committee, hereby adopts these findings and transmits them to the New Hampshire Public Utilities Commission pursuant to RSA 162-F:8,I.

The Application and Petitions are referred to the Wetland Board, the Water Supply and Pollution Control Division, Department of Environmental Services, the of Transportation, and the Public Utilities Commission for the issuance of such permits and licenses as required by law to be included in the Certificate of Site and Facility that may be issued by the Public Utilities Commission.

Robert W. Varney, Dept. of Environmental Services

Stephen K. Rice, Comm. Dept. of Resources & Economic Development

Wilbur F. LaPage, Dir. Div. of Parks, Dept. of Resources and Economic Development

Dr. Patrick J. Meehan, Dir. Division of Public Health Dept. of Health & Human Services

Douglas L. Patch, Public Utilities Commission

Dr. Donald A. Normandeau, Dir. Fish & Game Dept.

Charles P. O'Leary, Comm. Dept. of Transportation

Delbert F. Downing, Dir. Water Resources Division Dept. of Environmental Services

Dennis R. Lunderville, Dir. Air Resources Division, Dept. of Environmental Services

John E. Sargent, Dir. Division of Forests & Lands Dept. of Resources & Economic Development

Jeffrey H. Taylor, Dir. Office of State Planning

Michael D. Cannata, Jr. Chief Eng., Public Utilities Comm.

Attachment B

May 26, 1992

Robert W. Varney, Energy Facility Evaluation Committee Department of Environmental Services Office of the 6 Hazen Drive Concord, New Hampshire 03301-0095

RE: *PSNH 115 kv Electric Transmission Line, Tamworth to Conway*

Dear Varney:

At the May 5, 1992, meeting the Wetlands Board reviewed Public Service of New Hampshire's file, #92-410, to construct a new 115 kv electric transmission line from White Lake, Tamworth to Saco Valley, Conway utilizing an existing transmission line corridor.

The Board voted the following conditions be imposed for the dredge and fill of 32 sq.ft. for two poles and thirteen anchors, place 32 sq.ft. of concrete blocks for two temporary bridges and impact 7,176 sq.ft. of wetlands for temporary timber mats per plans received 2/27/92 and 3/27/92:

1. Dredge spoils to be placed out of jurisdiction.
2. Area to be regraded to original contours following completion of work.

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3. No further alteration of wetlands or surface waters.
4. All temporary structures shall be removed prior to or upon completion of the installation work.
5. If a permit is issued, the expiration date shall be two years from issuance.
6. Duration of the permit and requested time extensions shall be in accordance with rules Wt 502.01 and Wt 502.02.

Respectfully yours,

Delbert F. Downing

DFD/KNK/np

Attachment C

DSF 91-130 APPLICATION OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Administration Room 102 Tel: (603)271-3734

January 20, 1993

Mr. Wynn Arnold Secretary and Executive Director NH Public Utilities Commission 8 Old Suncook Road, Bldg. #1 Concord, New Hampshire 03301

Dear Mr. Arnold:

The New Hampshire Department of Transportation has considered the Petition for a Permit under RSA Chapter 231 to cross State highways with overhead conductors with respect to the above referenced matter. The Petition is considered with respect to six State highway crossings which are identified in Appendix G of the Application as:

1. NH Route 16, Tamworth, NH
2. NH Route 113, Madison, NH
3. NH Route 113, Madison, NH
4. NH Route 153, Conway, NH

5. NH Route 113, Conway, NH

6. US Route 302, Conway, NH

In recognition of the Applicant's Peition for these highway crossings, a permit is granted with the following conditions:

A. All wires and cables located within the public ways will conform to clearances required by the National Electric Safety Code and any additional clearances required by the Department of Transportation, as deemed appropriate to allow for improvements to existing highways.

B. All poles or structures will be located outside the highway right-of-way and where practicable at least 50-feet from highway right-of-way to allow for future improvements to the highway facilities.

C. All other facilities installed within the limits of the public right-of-way including temporary structures, appurtenances and equipment used in the construction phase of these transmission lines shall conform to the Utility Accommodation Manual by the State of New Hampshire, Department of Transportation. Construction schedules and procedures including traffic control and restoration measures shall be approved in advance of construction by the appropriate Highway District Engineer.

D. This proposed transmission line project is within the limits of the Conway Bypass study. To the extent practical, this line will be constructed so as to be compatible with the proposed highway improvements. This shall be coordinated with Utilities Engineer Greg E. Placy [Tel: (603)271-2297].

I understand that this permit with the accompanying conditions will be incorporated into a Certificate of Site and Facility with respect to the Application, as and when issued by the Public Utilities Commission pursuant to RSA Chapter 162-F.

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Licenses for the above-mentioned crossings of State maintained highways will be granted in the normal manner after the crossings are installed, provided the petition for licenses are submitted and the installations are made in compliance with the foregoing provisions.

Sincerely,

Charles P. O'Leary, Jr.

CPO/mkr

cc: Ken Kyle, NHDOT, District 3

Greg E. Placy, Utilities Engineer

David Plante, PSNH

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NH.PUC*02/03/93*[74978]*78 NH PUC 57*Northern Utilities, Inc.

[Go to End of 74978]

Re Northern Utilities, Inc.

DE 93-008
Order No. 20,740
78 NH PUC 57

New Hampshire Public Utilities Commission

February 3, 1993

Report and Order Waiving Those Provisions of 49 C.F.R. 193 Relative to Mobile Liquefied Natural Gas Facilities.

Appearances: Victor Platania and Ronald Danielson on behalf of Northern Utilities, Inc.; and Richard G. Marini and Robert Egan on behalf of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On November 2, 1992, Cesar DeLeon, Director, Pipeline Safety Regulatory Program of the United States Department of Transportation issued an opinion stating that Mobile Liquefied Natural Gas (LNG) facilities were subject to the provisions of 49 C.F.R. Part 193 (Part 193). This opinion was then disseminated to various state regulatory commissions, including the New Hampshire Public Utilities Commission (Commission), responsible for the enforcement of Part 193. 49 U.S.C.A. §1674.

As a result of these actions, Northern Utilities, Inc. (Northern or the Company) filed a petition with the Commission on January 5, 1993, pursuant to 49 U.S.C.A. 1672(d) (Supp.) and N.H. Admin. R., Puc chapter 200 requesting a waiver from Part 193 as it relates to a mobile LNG facility sited and operated by the Company in Rochester, New Hampshire over the past ten (10) years. *See*, Appendices I and II.

On January 20, 1993, the Commission issued an Order of Notice scheduling a hearing on the requested waiver for January 26, 1993.

II. *POSITIONS OF THE PARTIES AND STAFF*

A. *Northern*

At the January 26, 1993, hearing Northern took the position and presented evidence that the mobile LNG site in question was only used in extraordinary circumstances to ensure safe and adequate service to its customers, substantial safety precautions have been and will be taken relative to the site, and that the necessity of the site will be negated by system upgrades in the near future. The Company also testified that the application of the requirements of Part 193 to its mobile LNG site in Rochester, N.H. would be unduly burdensome and economically inefficient

in the provision of service to its customers. Based on this evidence the Company requested that the Commission grant the requested waiver and support the waiver before the Department of Transportation.

C. Staff

Staff concurred in the Company's request for a waiver providing the Company complied with a list of conditions precedent to the granting of a waiver which they believed would protect the general public and the Company's customers in the absence of the application of Part 193 which Staff agreed was unduly cumbersome and economically inefficient in the provision of service to the Company's customers.

The conditions precedent are as follows:

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1. All LNG transports must be designed, constructed, initially tested, operated and maintained in accordance with federal law and rules.
2. All portable LNG equipment must be operated by at least one person qualified by experience and training in the safe operation of these system. All other operating personnel, at a minimum, must be qualified by training.
3. All portable LNG equipment must be sited so as to minimize the possible hazard to the public consistent with the need to provide the service.
4. Portable LNG equipment must be reasonably protected against vehicular damage.
5. Reasonable provision must be made for safely containing or controlling leakage of LNG from valves, pipes, vaporizers or hoses.
6. Reasonable provision must be made to minimize the possibility of accidental ignition in the event of a leak.
7. Provision must be made to ensure that the introduction of vaporized LNG will not reduce the odorization level of the system gas below the level required by regulations.
8. All portable equipment must be continuously attended during the time LNG transport is connected to the other portable equipment, or other means of continuous monitoring must be maintained.
9. The portable LNG equipment must be periodically monitored for leakage by leakage detection equipment when the LNG transport is connected to the other portable equipment.
10. Reasonable provision must be made to restrict access by the general public when the LNG transport is on site.
11. Portable fire fighting equipment must be present at all times and properly maintained to allow for effective control of LNG or natural gas fires at the site.
12. Personnel operating the portable LNG facilities must be trained in the proper use of such fire fighting equipment.

13. Reasonable provision must be made to continuously monitor the portable equipment as to the impact on the distribution system being served to ensure appropriate pressures and temperatures are being maintained.

14. Means of communication must exist between the personnel operating the portable LNG facilities and a manned operating center and local emergency authorities.

15. If practical, notification will be given to the Public Utilities Commission and the local fire fighting agency prior to operating the facility, except that in the event of an emergency where the integrity of the system would be impaired by a delay due to notification, the operation may commence and notification shall be provided.

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16. The Company will provide training pertinent to the facility and LNG in general, to the local fire fighting agency.

III. COMMISSION ANALYSIS

Northern presented testimony that mobile LNG facilities had been in place at this and other sites in the Rochester, New Hampshire area for approximately ten years to address a "bottleneck" to a certain portion of their Rochester, New Hampshire distribution system that could result in extreme pressure drops in the system in certain periods of "peak" usage. The Company testified that during the past ten years mobile LNG had only been dispatched to the sites on "three or four" occasions, and that failure to maintain adequate pressure through the use of the mobile LNG facility on these occasions could have resulted in the extinguishment of pilot lights to appliances to the affected area requiring the shut down of the entire distribution system down stream from the "bottleneck". The Company also testified that system upgrades would negate the need for the site and facility within the next four years.

In regard to safety precautions the Company has taken relative to the site, the Company testified that the facility, which is located along Route 125 in Rochester, New Hampshire, is protected by "Jersey Barriers" to prevent vehicular traffic from penetrating the site, and has vapor barrier fences permanently in place around the vaporizer and boiler. They further testified that they had been in contact with the Rochester, New Hampshire Fire Department and informed them of the potential hazards of LNG and had scheduled training sessions with the Fire Department, which is located approximately two miles from the site, on the proper procedures to be taken in the case of an emergency involving the LNG.

The Company testified that the mobile LNG unit was owned and operated by TransGas under contract to Northern, TransGas maintains the units in accordance with federal law and provides a trained mobile LNG driver/operator when the unit is in service. When the unit is on site, the unit and facilities are operated, maintained and monitored by the driver/operator and two trained employees of the Company. The site is in constant radio communication with a company dispatcher (24 hours a day) and is also equipped with telephone service. In case of emergency there are at least three thirty pound fire extinguishers on site with the mobile unit and all individuals on site are trained to use the equipment. The Company further testified that all sources of electricity and other potential spark producing hazards were off-site and that the

mobile LNG unit odorizes the vaporized LNG prior to entering the distribution system.

In response to the preconditions for a waiver set forth by the Staff the Company testified it was already in compliance with those preconditions as set forth above and would ensure that gas detection equipment would be used when the unit was on site, that they would appropriately notify the Commission in the event of an incident and would otherwise comply with all of the conditions set forth by Staff including, but not limited to, the provision of a diagram designating the design and operating specifications of the facility. *See*, Appendix III.

Based on the above record and the representations of the Company the Commission finds, pursuant to N.H. Admin. R., Puc 201.05, that a waiver of N.H. Admin. R., Puc 506.01, adopting 49 C.F.R. Part 193 by reference, is in the public interest because the Company has demonstrated an "existing peculiarity" and "unusual circumstance" in the Rochester, New Hampshire distribution system warranting a departure from the rule, and because the Company has demonstrated that its "alternative procedure" to ensure the safety of the public is "consistent with the policies embodied in said rule". Puc 201.05

Furthermore, the commission finds that applying the requirements of Part 193 to this mobile LNG unit would be unduly burdensome and economically inefficient in the provision of service to Northern's customers.

Our order will issue accordingly.

Concurring: February 3, 1993

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ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Northern Utilities, Inc. request for a waiver from N.H. Admin. R., Puc 506.01, adopting 49 C.F.R. Part 193 by reference, pursuant to N.H. Admin. R., Puc 201.05 and 49 U.S.C.A. §1672(d) (Supp.) is granted; and it is

FURTHER ORDERED, that the Commission's Executive Director and Secretary immediately forward a copy of this Report and Order granting the requested waiver to the Secretary of the Department of Transportation for her review pursuant to 49 U.S.C.A. §1672(d) (Supp.).

By order of the New Hampshire Public Utilities Commission this third day of February, 1993.

APPENDIX I

January 5, 1993

Mr. Richard G. Marini, P.E. Gas Safety Engineer New Hampshire Public Utilities
Commission 8 Old Suncook Road Concord, NH 03301-5185

Dear Mr. Marini:

In response to the memo dated November 2, 1992 from Cesar DeLeon, Director Pipeline Safety Regulatory Program to Richard Sanders, Manager Pipeline Safety Division and circulated

to the various state regulating agencies concerning mobile LNG facilities, Northern Utilities would like to apply for a waiver on the use of its portable LNG facility in Rochester, NH.

The Rochester, NH system consists of 150 lb. high pressure one-way feed into a regulator station with a 50 lb. outlet feeding approximately 1,378 customers with a peak hourly send out of approximately 149 MCFH. Our engineering analysis has identified a potential problem with this system in the event our high pressure supply to the area is inadequate. The addition of our portable unit will insure adequate supply to the area in the event of a problem.

The portable unit is a 150 MCF per hour unit at 50 lb. The facility will be housed on site within a vapor fence with Jersey barriers installed between the vaporizer and the road to protect the facility which was a request of the Rochester Fire Department. The unit will be continuously manned with at least two trained operators and a Trans Gas LNG certified driver during operation. In the event the portable unit is required, we anticipate its operation encompassing a 2 to 4 hour period during the morning peak supply load and an additional 2 to 4 hours period during the evening peak load. We have contacted the Rochester Fire Department and have incorporated their suggestions into our facility placement in the area and have scheduled training sessions with their personnel when the unit is placed at the site. There will be no LNG product at the site other than the times stated previously. Northern Utilities has initiated a 4 year plan to replace the existing mains feeding the system and with the advent of the Portland pipeline in 1996 this facility will no longer be required.

Sincerely,

Vic Platania, Manager

Gas Operations

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APPENDIX II IS A DESIGN AND CANNOT BE PROVIDED ELECTRONICALLY.

APPENDIX III

January 29, 1993

Mr. Richard Marini, P.E. State of New Hampshire Public Utilities Commission 8 Old Suncook Rd Concord NH 03301-5185

Dear Mr. Marini:

This correspondence is included as part of Northern Utilities' request for a waiver with regard to the operation of a portable LNG vaporizer at the Rochester, New Hampshire regulator station.

In order to maintain gas supply to the communities located north of the Varney Brook metering station in Dover while minimizing the need to operate the portable vaporizer, Northern Utilities has planned to replace the following distribution mains as system improvements based on design day conditions:

1993 - Replace approximately 6,000' of 4" bare steel main with 8" coated steel along the 500 psi line between the Gulf Road station in Dover, and the High Street station in Somersworth.

1994 - Replace an additional 5,200' of 4" bare steel main with 8" coated steel along the 500 psi line between the Gulf Road station in Dover, and the High Street station in Somersworth.

Replace approximately 5,200' of 4" bare steel main with 8" coated steel along the 150 psi line between Somersworth and Rochester.

1995 - Replace the balance of 4" bare steel (approximately 2.5 miles) with 8" coated steel along the 500 psi line between the Gulf Road station in Dover, and the High Street station in Somersworth.

1996 - No additional improvements necessary to the distribution system as the Portland

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Natural Gas Transmission System pipeline is scheduled for construction this year.

Very truly yours,

Edward Wencis

Engineering Manager

EW;jh cc: R. Cencini

P. LaShoto

V. Platania

J. Snow

January 29, 1993

Mr Richard Marini P.E. State of New Hampshire Public Utilities Commission 8 Old Suncook Rd Concord NH 03301-5185

Dear Mr. Marini:

Enclosed are schematics detailing the Rochester Regulation Station and the LNG portable unit (both vaporizer & boiler).

In addition to this information, the Rochester system is monitored at our Ludlow 24-hour Dispatch Center by two (2) telemeters. One on the inlet 150 psi line and the second on the 45 psi (distribution operating pressure) line. In addition to these telemeters, there is also a recording chart at the tail end of the system which is picked up and changed weekly.

Sincerely,

Vic Platania, Manager

Gas Operations

VP;jh

Via FacsimileEncl.

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January 29, 1993

Mr. Richard G. Marini, PE New Hampshire Public Utilities Commission 8 Old Suncook Road Concord, NH 03301

RE: Public Hearing DE 93-008

January 26, 1993

Dear Mr. Marini:

This letter confirms our conversation of January 29, 1993 and clarifies the first condition with respect to Northern Utilities' request for a waiver from the Pipeline Safety Regulations Part 193 - Liquefied Natural Gas Facilities: Federal Safety Standards.

This condition specified that all LNG transports must be designed, constructed, initially tested, operated and maintained in accordance with 49 CFR 172. The following sections of 49 CFR apply to the above requirements for LNG transports:

- 171 Regulations and definitions
- 172 Shipping papers - markings - placarding
- 173 Classification of materials
- 177 Carriage by public highway
- 178 Cargo tank specifications
- 180 Qualification, tests, inspections
- 394 Reporting of accidents
- 396 Inspections, repairs, maintenance
- 397 Driving and parking rules

Thank you for your assistance in this matter. If you require any additional information, please contact me.

Very truly yours,

Ronald P. Danielson

Manager, Gas Supply Operations

cc: V.H. Platania

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NH.PUC*02/04/93*[74979]*78 NH PUC 67*Granite State Electric Company

[Go to End of 74979]

Re Granite State Electric Company

DF 92-219

Order No. 20,741

78 NH PUC 67

New Hampshire Public Utilities Commission

February 4, 1993

Petition for Authorization and Approval to Issue and Sell One or More Long Term Notes.

Appearances: David J. Saggau, Esquire for Granite State Electric Company; John Rohrbach, Economist for the Office of Consumer Advocate; Mary Jean Newell, Assistant Finance Director for Staff.

BY THE COMMISSION:

REPORT

I. PROCEDURAL BACKGROUND

On November 18, 1992, Granite State Electric Company filed a Petition seeking authorization to issue and sell long term note(s) up to \$10 million through December 31, 1994 at interest rates not to exceed 11 percent.

An Order of Notice was issued setting a hearing for January 14, 1993.

Granite State Electric Company (Granite State Electric or the Company) offered John G. Cochrane, Director of Corporate Finance for New England Power Service Company as its only witness.

II. POSITION OF THE PARTIES

Granite State Electric presented three exhibits: 1) the petition for authorization and approval to issue and sell one or more long term notes; 2) the direct testimony of John G. Cochrane; 3) the financial exhibits Re: Proposed Issuance and Sale of one or more Long Term Notes. The Company, through Mr. Cochrane, requested that the Commission approve the issuance and sale of long term notes based on the data filed by Granite State Electric. The long term notes would be issued when the Company was able, they estimate \$5 million in mid-1993 and again in

mid-1994, due to the interest coverage test requirements under Granite State Electric's outstanding note agreements. As the Company did not know when it would actually seek the financings it could not provide the actual interest rate it expected to obtain for its financings. The Company did not know the actual terms and conditions of the long term notes, but estimated that they would be similar to their outstanding notes.

Granite State Electric currently has a short term debt level of \$3 million. The short term debt level is expected to increase to \$5 million by mid-year 1993 and \$7 million by 1993 year-end without any additional permanent financing. Criteria in Granite State Electric's outstanding note agreements relating to interest coverage requirements would allow the Company to issue \$2.5 million of long-term notes at this time. The Company testified that rate relief in addition to the temporary rate relief received in September 1992 would allow earnings to improve so that Granite State Electric could issue \$5 million of notes in mid-1993. Mr. Cochrane testified that a ten year note currently carries an interest rate of around 8%, while longer term note (20 years) would carry a rate of approximately 8.75%. The witness also stated that any notes that Granite State Electric issues will probably not have a sinking fund and will be redeemable with a premium throughout their life. All other representations and warranties, covenants, and terms of a new note issue should be very similar to Granite's outstanding notes.

The proceeds from the sale of the proposed notes will be applied by Granite State Electric to the payment of short term borrowings incurred for, or to the cost of, or to the reimbursement of the treasury for, retirement of outstanding notes, capitalizable additions and improvements to the plant and property of Granite State Electric, or other capitalizable expenditures.

Staff questioned the witness regarding the 11% interest rate ceiling and whether it would be in the best interest of the Company, especially when interest rates were currently low; the prime rate being 6%. Staff recommended that the Commission not approve the Company's request as there was not enough concrete data regarding the financing; it would be too ambiguous and takes the approval process out of the Commission's hands. The Commission would have no way of determining whether the

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best financing option has been obtained by the Company.

III. COMMISSION ANALYSIS

During the hearing, Mr. Cochrane testified that Company thought an 11% interest rate would cover conditions that may be occurring when it pursued the financing. However, Mr. Cochrane also testified at the end of the hearing, that the Company would accept a lower maximum interest rate of 10%. A post hearing letter from the Company confirmed that the 10% maximum level would be acceptable.

The Staff is correct that the Company request is indefinite and the Commission could not determine whether the Company has obtained the best financing option possible.

We will approve the financing request for \$10 million of notes to be issued at the 10% maximum interest rate during 1993 and 1994. We will require that, prior to soliciting bids from potential investors for a note issue, the Company file a copy of the private placement

memorandum for review. The Commission will then review the terms and conditions to determine whether the financing is appropriate and in the public good. The Commission will review the memorandum and respond within a five-day period.

Our order will issue accordingly.

Concurring: February 4, 1993

ORDER

Upon consideration of the foregoing report, which is made a part hereof, it is hereby

ORDERED, that Granite State Electric Company Petition for authorization to issue and sell one or more Long Term Notes in the amount of \$10 million over the two year period 1993-1994 is approved; and it is

FURTHER ORDERED, that Granite State Electric Company may seek the proposed financings at a maximum interest rate of 10%; and it is

FURTHER ORDERED, that Granite State Electric Company shall file its financing data with the Commission prior to solicitation of bids for any issuance of such financings; and it is

FURTHER ORDERED, that Granite State file a Disposition of Proceeds on January 1st and July 1st of each year.

By order of the Public Utilities Commission of New Hampshire this fourth day of February, 1993.

=====

NH.PUC*02/04/93*[74980]*78 NH PUC 68*Granite State Electric Company

[Go to End of 74980]

Re Granite State Electric Company

DR 92-161

Order No. 20,742

78 NH PUC 68

New Hampshire Public Utilities Commission

February 4, 1993

Order Accepting the Proposed Offer of Settlement.

BY THE COMMISSION:

ORDER

WHEREAS, on January 20, 1993 the commission heard testimony and reviewed exhibits supporting the proposed Offer of Settlement recommending commission approval of the Granite

State Electric Company ("Granite State") 1993-1994 Conservation and Load Management Program; and

WHEREAS, after a thorough investigation staff entered into negotiations with Granite State Electric Company and the Conservation Law Foundation which resulted in unanimous support for the Offer of Settlement, appended to this Order as Attachment A; and

WHEREAS, this Order will allow Granite State to continue its current programs and implement new programs in a timely fashion to the benefit of all ratepayers; and

WHEREAS, due to the short period of time from the January 20, 1993 hearing date and the February 1, 1993 proposed program implementation date, the commission will issue its final report stating the positions of staff and the parties and its analysis of the Offer of Settlement as soon as possible; it is hereby

ORDERED, that the Offer of Settlement (Attachment A) as presented to the commission by staff and the parties on January 20, 1993 is accepted; and it is

FURTHER ORDERED, that pursuant to the Offer of Settlement, Granite State Electric Company's conservation and load management

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factor of \$0.00116 for residential customers and \$0.00489 for commercial and industrial customers is approved in accordance with the terms of the Settlement; and it is

FURTHER ORDERED, that Granite State Electric Company file tariff pages in compliance with this order before the effective date of the new factors.

By order of the Public Utilities Commission of New Hampshire this fourth day of February, 1993.

ATTACHMENT A

OFFER OF SETTLEMENT

This Offer of Settlement is jointly submitted by the New Hampshire Public Utilities Commission Staff ("Staff"), the Conservation Law Foundation ("CLF"), and Granite State Electric Company ("Granite State Electric" or "Company"), together the "Parties," and resolves all issues among the Parties in this proceeding, including the budget, program design, incentive, and rate recovery issues for Granite State Electric's 1993-1994 Conservation and Load Management ("C&LM") Program.

I. Background

On October 1, 1992, Granite State Electric filed with the Commission its proposed 1993-1994 C&LM Program consisting of five separate residential and three commercial & industrial ("C&I") programs.¹⁽⁴⁾ The Company's proposed budget for its C&LM program is \$2.8 million per year for new business in 1993 and 1994, with a total budget of \$3.3 million in 1993 which reflects carry-over from the 1992 program year, and costs associated with the 1993 program. The Company proposed a uniform cents-per-kilowatt-hour factor of \$.00391, a significant reduction from the currently effective C&LM factor of \$.00805. While the Company

proposes that its program designs and budget for new business of \$2.8 million be approved for the 1994 C&LM program year, the Company proposed to file on or before October 1, 1993 its proposed 1994 C&LM factor when other costs affecting that factor are known, such as any anticipated over- or under-recovery in 1993, carry-over from 1993, and incentives earned. The Company projects that its 1993 and 1994 C&LM program will each produce approximately \$7 million of value to its customers.²⁽⁵⁾

The Commission held a duly noticed pre-hearing conference on October 28, 1992, at which time the procedural schedule was established and the motion to intervene submitted by the CLF was approved. There were no other intervenors in this proceeding.

Both Staff and the CLF submitted testimony in this proceeding pursuant to the procedural schedule. Staff expressed concerns over several aspects of the Company's proposal. First, Staff expressed concerns with the implementation of the Multi-Family Retrofit Program which has a low benefit/cost ratio while scaling back the Home Energy Management Program which has a higher benefit/cost ratio.³⁽⁶⁾ Second, Staff expressed concern that a two-year approval of the Company's program designs, budgets and incentive mechanisms for new business could prevent Staff from proposing any changes until the Company's 1995 program. Third, Staff recommended that the Company implement separate factors for the residential and the C&I customers as opposed to a uniform cents-per-kilowatthour factor applied across all customer classes as proposed by the Company.

Fourth, Staff discussed the importance of cost-reflective retail pricing to effective C&LM programs, an issue which is currently being addressed in the Company's pending rate case in Docket No. DR 92-084. Fifth, Staff expressed opposition to the Company's proposal that it be allowed to increase rebate levels for any measure in the Energy Initiative and Design 2000 programs by up to 20 percent to respond to customer participation and acceptance levels during the program years. Staff believes that the rebate levels as proposed by the company should be given a chance to succeed and that the Company should not be allowed to increase rebates at the first sign of customer opposition. Sixth, Staff supported the Company's proposed continuance of the maximizing and efficiency incentive mechanisms used in the 1992 program which included recovery of the maximizing and efficiency incentives after the installed

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program measures met a 50% projected savings threshold. However, Staff's support for continuation applied only to the 1993 program year due to its opposition to the Company's request for a two-year approval period. In addition, Staff recommended that Granite State Electric's value guarantee, which currently applies to all programs in the aggregate, be applied to individual programs. Further, Staff recommended that maximizing incentives not be earned on value created by individual programs which are not cost-effective on a one-year basis. Finally, Staff recommended that the Commission establish an appropriate methodology to account for the sulfur dioxide allowances the Company may receive under the Clean Air Act Amendment of 1990 for its C&LM programs.

The CLF stated that in several key areas, the Company has made substantial progress in 1992 in improving program effectiveness, serving the residential market, and expanding state-

of-the-art evaluation and monitoring activities. The CLF believes that the Company's proposed 1993-1994 C&LM program continues to push the state-of-the-art program design in several areas and that the Company should be awarded incentives on its programs.

II. *Settlement*

During the course of discovery in this proceeding, the Company responded to 33 data requests submitted by Staff, and the Parties participated in one technical session and two settlement conferences. As a result of these settlement conferences, the Parties hereto have reached a settlement which resolves all issues among them in this proceeding. Specifically, the Parties agree as follows:

1. Introduction

Granite State Electric shall implement its 1993-1994 C&LM programs as proposed, including incentive and cost recovery mechanisms, with the modifications and stipulations contained in this Settlement. The Company's 1993 C&LM program shall be effective February 1, 1993, and the Company's 1994 C&LM program shall be effective January 1, 1994.

2. Program Budget

The 1993 C&LM program budget shall be \$3.4 million, of which \$2.8 million is for new business. The budget for new business in 1994 shall also be \$2.8 million. Both the 1993 and 1994 budgets for new business include an additional \$36,000 for the residential Home Energy Management Program above the budget level proposed by the Company (see paragraph 7 below). The 1993 and 1994 budgets are shown in Attachment 1. The values associated with these budgets are shown in Attachment 2.

3. Two-Year Program Approval

The parties agree that a two-year approval of program designs and budgets is appropriate for Granite State Electric due to the maturity of its C&LM program.

In lieu of a full C&LM petition for 1994, Granite State Electric agrees to file, on or before October 1, 1993, its proposed 1994 C&LM factor, to be effective January 1, 1994, which will be subject to Commission investigation and approval.

It is expressly understood that any Party to this Settlement may, pursuant to the procedural schedule established in the Company's proposed 1994 C&LM factor proceeding, propose any changes to the Company's 1994 C&LM program notwithstanding the two-year approval. To the extent changes are not proposed to the Company's 1994 C&LM program, the program shall be implemented in accordance with the terms of this Settlement.

4. Conservation Factor

A. Program Expense Recovery

Granite State Electric shall recover its C&LM program expenses through two factors. Residential program expenses will

be allocated directly to residential customers and C&I program expenses will be allocated directly to C&I customers.

B. Incentive Recovery

Granite State shall recover any incentives earned on a uniform cents-per-kilowatt-hour basis across all classes. This across-the-board recovery of incentives is consistent with the allocation of system benefits generated by all C&LM programs. A calculation of the company's 1993 target incentive is shown in Attachment 3.

C. The Factors for 1993 and 1994

The 1993 residential C&LM factor is \$0.00116 and the 1993 C&I factor is \$0.00489, effective March 1, 1993, or the effective date of the Company's base rate change in Docket No DR 92-084, whichever is earlier. A calculation of each factor for 1993 is shown in Attachment 4. In calculating the 1993 factor, the over-collection from the 1992 program year will be allocated uniformly across all classes. The 1994 factors will include an over- or under-collection in the 1993 residential or C&I programs on a class-specific basis and will be shown in the Company's October 1, 1993 filing.

5. Home Energy Management Program

Granite State Electric agrees to increase its budget for the Home Energy management Program in both 1993 and 1994 from \$51,000 to \$86,000, and shall target 200 installations in both 1993 and 1994.

6. Rebate Levels

Granite State Electric may decrease rebate levels for any individual measure or measures in Energy Initiative and Design 2000 without formal Commission approval. The Company agrees to notify the Commission Staff of any such rebate level changes. Prior to any increase in rebate levels of less than 20 percent, Granite State shall notify Commission Staff. Should Staff disagree with the Company's rationale for the rebate increase, the Company may petition the Commission for approval. Any changes to rebate levels in excess of 20 percent shall require advance Commission approval.

7. Maximizing Incentive

Granite State Electric may earn a maximizing incentive only on those programs which are cost-effective in the year in which the maximizing incentive is calculated. However, the costs and value associated with non-cost effective programs shall be included in the calculation of the Company's efficiency incentive.

All incentives earned by Granite State Electric shall be recovered on an after the fact basis. Accordingly, Granite State's 1993 maximizing and efficiency incentives shall be incorporated in its 1994 C&LM factors. Final 1993 incentives shall be based on the results of the Company's monitoring and evaluation report to be submitted to the Commission in June of 1994.

8. Value Guarantee

Based on Staff's in-depth review of the Company's programs, and the benefits expected, Granite State Electric shall be allowed full recovery of all expenses associated with any individual residential program as long as in the aggregate Granite State Electric's residential programs create value in excess of C&LM costs for residential customers. In addition, Granite State Electric shall be allowed full recovery of all expenses associated with any individual C&I program as long as in the aggregate the Company's C&I program creates value in excess of C&LM costs for its C&I customers. If residential programs in aggregate are not cost-effective, Granite State Electric's cost recovery shall be limited to the value created. If C&I programs

Page 71

in aggregate are not cost-effective, Granite State Electric's cost recovery shall be limited to the value created. The calculation of value created by the Company's 1993 and 1994 programs shall be finalized based on the after-the-fact results reported in the Company's monitoring and evaluation report submitted to the Commission in June 1994 and 1995, respectively.

9. Financing

The Company shall not enter into loan guarantees or interest buy-down agreements for C&I customers participating in the Energy Initiative or Design 2000 programs. The Company may, however, increase rebate levels for customers who demonstrate that they are unable to pay the full customer contribution associated with participation in either program. Any such increased rebate shall be first approved by Staff on a case-by-case basis. If Staff does not agree with the proposed increased rebate levels for a particular customer, the Company may seek approval from the Commission. The Parties agree that the aggregate incremental cost of these higher rebates shall not exceed \$100,000 annually, and that such costs will be a part of the Energy Initiative and Design 200 budgets for both 1993 and 1994.

10. Conservation Allowances

Granite State Electric agrees to work with the Environmental Protection Agency to establish a mechanism to administer the conservation bonus allowances that may be earned under the Clean Air Act Amendment of 1990 for the Company's C&LM program. Granite State Electric shall periodically update the Commission on any progress made. Granite State Electric will include a report on its progress in this regard in its October 1993 filing.

11. Miscellaneous Provisions

A. Other than as expressly stated herein, this Settlement establishes no principles and shall not be deemed to foreclose any Party from making any contention in any future proceeding or investigation.

B. Other than as expressly stated herein, the approval of this Settlement by the Commission shall not in any respect constitute a determination as to the merits of any issue in any other proceeding.

C. This Settlement is the product of settlement negotiations. All offers of settlement shall be without prejudice to the position of any Party or participant presenting such offer. D. This Settlement is submitted on the condition that it be approved in full by the Commission, and on further condition that if the Commission does not approve this Settlement in its entirety, this Settlement shall be deemed withdrawn and shall not constitute a part of the record in this or any other proceeding or be used for any purpose.

The Parties respectfully request the Commission to adopt this Settlement as a final resolution of all issues in this proceeding.

Dated this 20th day of January, 1993,

Respectfully submitted, NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION STAFF
Susan Chamberlin, Esquire

CONSERVATION LAW FOUNDATION Armond Cohen, Esquire

GRANITE STATE ELECTRIC COMPANY David J. Saggau, Esquire

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FOOTNOTES

¹The five residential programs include 1) Electric Space Heating, which installs weatherization and other conservation measures in the homes of customers with electric heat; 2) Residential Lighting, which sells efficient compact fluorescent lamps at reduced prices; 3) Home Energy Management, which cycles customers' water heaters to shift load to off-peak hours; 4) Energy-Crafted Homes, which promotes efficiency in the design and construction of new homes; and 5) Multi-Family Retrofit, a new program which installs a variety of conservation measures in electrically-heated multi-family buildings of five or more units. The proposed C&I programs include 1) Design 2000, which encourages efficiency in new construction, renovation, remodelling and replacement of failed equipment; 2) Energy Initiative, which encourages the replacement of existing equipment with more efficient equipment; and 3) the Small C&I Program which installs conservation measures in the facilities of C&I customers with average monthly demands of less than 50 kilowatts ("kW") or annual energy use of less than 150,000 kilowatthours ("kWh").

²The overall benefit/cost ratio of the Company's C&LM program is 2.11/1. The individual programs are also cost-effective, with the exception of Energy-Crafted Home, which, due to low participation levels and high start-up costs, is not cost-effective on a one-year basis, but is expected to be cost-effective over five years.

³The cost-effectiveness of the Multi-Family Retrofit Program has been revised based on more recent data. The benefit/cost ratio for this program has moved from 1.01 to 1.55.

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[TABLE TO BE SHOT] [Attachment 1 - page 1 of 2]

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. Docket No. 92-161

Attachment 1 Page 1 of 2

1993 C&LM BUDGET

PAYROLLEXPENSEADVERTISINGTOTAL PROGRAM(\$000)(\$000)(\$000)(\$000)

RESIDENTIAL PROGRAMS

Energy Crafted Home\$3.8\$16.3\$6.2\$26.3

Home Energy Management\$1.2\$84.4\$0.8\$86.4

Multifamily Retrofit\$4.7\$94.1\$0.0\$98.8

Residential Lighting\$6.2\$219.1\$36.9\$262.2

Residential Space Heating\$6.4\$243.9\$4.6\$254.9 SUBTOTAL\$22.3\$657.8\$48.5\$728.6

C&I PROGRAMS

Design 2000\$92.5\$1,411.7\$43.0\$1,547.2

Energy Initiative\$83.6\$683.0\$5.5\$772.1

Small C&I\$25.7\$341.1\$0.4\$367.1 SUBTOTAL\$201.8\$2,435.7\$49.0\$2,686.5 GRAND
TOTAL\$224.1\$3,093.5\$97.4\$3,415.1

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[TABLE TO BE SHOT] [Attachment 1 - page 2 of 2]

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. Docket No. 92-161

Attachment 1 Page 2 of 2

1994 C&LM BUDGET

PAYROLLEXPENSEADVERTISINGTOTAL PROGRAM(\$000)(\$000)(\$000)(\$000)

RESIDENTIAL PROGRAMS

Energy Crafted Home\$4\$16\$6\$26

Home Energy Management\$1\$84\$1\$86

Multifamily Retrofit\$5\$94\$0\$99

Residential Lighting\$6\$219\$37\$262

Residential Space Heating\$6\$244\$5\$255 SUBTOTAL\$22\$658\$48\$729

C&I PROGRAMS

Design 2000\$93\$1,030\$43\$1,166

Energy Initiative\$84\$485\$6\$574

Small C&I\$26\$341\$0\$367 SUBTOTAL\$202\$1,856\$49\$2,107 GRAND

TOTAL\$224\$2,514\$97\$2,836

NOTE: Does not include any Design 2000 or Energy Initiative carryover from previous years.

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THIS PAGE WILL BE ATTACHED AS 20-742-2.pur on diskette. [Attachment 2]

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[TABLE TO BE SHOT] [Attachment 3 - page 1 of 3]

ATTACHMENT 3 PAGE 1 OF 3

GRANITE STATE ELECTRIC 1993 C&LM INCENTIVE & CUSTOMER DIVIDEND CALCULATION

TOTAL PLANNED ANNUALRESIDENTIAL PLANNED ANNUALC&I PLANNED ANNUAL

1TOTAL PROGRAM VALUE BEFORE ADJUSTMENT	\$7,209,600	\$1,190,800	\$6,018,800
2NEP EVALUATION COSTS	\$109,000	\$25,000	\$84,000
3CUSTOMER DIRECT COST	\$689,487	\$9,630	\$679,857
4TOTAL ADJUSTED PROGRAM VALUE	\$6,411,113	\$1,156,170	\$5,254,943
5PROGRAM COSTS	\$3,415,100	\$728,600	\$2,686,500
6TOTAL CONSERVATION INCENTIVE	\$516,593	\$94,218	\$422,375
7CUSTOMER DIVIDEND	\$2,479,420	\$333,352	\$2,146,068
8THRESHOLD	\$3,205,557	\$578,085	\$2,627,472

LINE 1: SEE ATTACHMENT 2 LINE 2: SOURCE: DEMAND PLANNING DEPT LINE 3: SOURCE: DEMAND PLANNING DEPT LINE 4: (LINE 1 - LINE 2 - LINE 3) LINE 5: SEE ATTACHMENT 1 LINE 6: MAXIMIZING INCENTIVE PLUS EFFICIENCY INCENTIVE (SEE

PAGES 2 AND 3 OF THIS ATTACHMENT). LINE 7: (LINE 4 - LINE 5 - LINE 6) LINE 8: (LINE 4 * 50%)

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[TABLE TO BE SHOT] [Attachment 3 - page 2 of 3]

ATTACHMENT 3 PAGE 2 OF 3

GRANITE STATE ELECTRIC 1993 C&LM MAXIMIZING INCENTIVE CALCULATION

TOTAL PLANNED ANNUALRESIDENTIAL PLANNED ANNUALC&I PLANNED ANNUAL

1TOTAL PROGRAM VALUE BEFORE ADJUSTMENT	\$7,209,600	\$1,190,800	\$6,018,800
2NEP EVALUATION COSTS	\$109,000	\$25,000	\$84,000
3CUSTOMER DIRECT COST	\$689,487	\$9,630	\$679,857
4TOTAL ADJUSTED PROGRAM VALUE	\$6,411,113	\$1,156,170	\$5,254,943
5NON-COST EFFECTIVE PROGRAM VALUE	\$12,600	\$12,600	\$0
6VALUE ELIGIBLE FOR MAXIMIZING INCENTIVE	\$6,398,513	\$1,143,570	\$5,254,943

7MAXIMIZING INCENTIVES\$241,102\$57,179\$183,923
 8THRESHOLD\$3,205,557\$578,085\$2,627,472-----

LINE 1: SEE ATTACHMENT 2 LINE 2: SOURCE: DEMAND PLANNING DEPT LINE
 3: SOURCE: DEMAND PLANNING DEPT LINE 4: (LINE 1 - LINE 2 - LINE 3) LINE 5:
 SEE ATTACHMENT 2 LINE 6: (LINE 4 - LINE 5), BUT NOT LESS THAN ZERO LINE 7:
 (5% * LINE 6) for Residential Programs, (3.5% * LINE

6) for C&I Programs LINE 8: (LINE 4 * 50%)

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[TABLE TO BE SHOT] [Attachment 3 - page 3 of 3]

ATTACHMENT 3 PAGE 3 OF 3

GRANITE STATE ELECTRIC 1993 C&LM EFFICIENCY INCENTIVE CALCULATION

TOTAL PLANNED ANNUALRESIDENTIAL PLANNED ANNUALC&I PLANNED
 ANNUAL 1TOTAL PROGRAM VALUE BEFORE ADJUSTMENT \$7,209,600 \$1,190,800
 \$6,018,800 2NEP EVALUATION COSTS\$109,000\$25,000\$84,000 3CUSTOMER DIRECT
 COST\$689,487\$9,630\$679,857 4TOTAL ADJUSTED PROGRAM VALUE \$6,411,113
 \$1,156,170 \$5,254,943 5PROGRAM COSTS\$3,415,100\$728,600\$2,686,500 6MAXIMIZING
 INCENTIVES\$241,102\$57,179\$183,923 7NET VALUE ELIGIBLE FOR EFFICIENCY
 INCENTIVE

\$2,754,911

\$370,392

\$2,384,520 8EFFICIENCY INCENTIVE\$275,491\$37,039\$238,452

9THRESHOLD\$3,205,557\$578,085\$2,627,472-----

LINE 1: SEE ATTACHMENT 2. LINE 2: SOURCE: DEMAND PLANNING DEPT LINE
 3: SOURCE: DEMAND PLANNING DEPT LINE 4: (LINE 1 - LINE 2 - LINE 3) LINE 5:
 SEE ATTACHMENT 1. LINE 6: SEE ATTACHMENT 3, PAGE 2. LINE 7: (LINE 4 - LINE 5
 - LINE 6) LINE 8: (LINE 7 * 10%) LINE 9: (LINE 4 * 50%)

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[TABLE TO BE SHOT] [Attachment 4 - page 1 of 2]

ATTACHMENT 4 PAGE 1 OF 2 GRANITE STATE ELECTRIC CALCULATION OF
 RESIDENTIAL & C&I FACTORS

RESIDENTIALC&ITOTAL

Line 11993 Program Budget\$728,600\$2,686,500\$3,415,100

Line 21992 Incentives (Preliminary)\$126,252\$232,666\$358,918

Line 3Estimated 1992 YE Overcollection\$385,375\$710,197\$1,095,572

Line 4 Estimated January 1993 Revenues \$223,766 \$296,461 \$520,227

Line 5 Total To Be Recovered \$245,711 \$1,912,508 \$2,158,219

Line 6 Eleven Month KWH 212,178,000 391,017,597 603,195,597

Line 7 1993 C&LM Factor \$0.00116 \$0.00489 \$0.00358

Line 8 Current Factor \$0.00805 \$0.00805 \$0.00805

Line 9 Decrease in Factor per KWH \$0.00689 \$0.00316 \$0.00447

 Line 1 Source: C&LM Department. See Attachment 1. Line 2 See Attachment 4, page 2. Allocated on a uniform

cents/kWh basis. Collection of any Incentives earned

on GSECO's 1993 program will be deferred until 1994. Line 3 See GSECO's C&LM November Report (Docket No. DR 91

-128), filed on January 15, 1993. Allocated on a

uniform cents/kWh basis. Line 4 See Testimony and Schedules (MSB-3) of M.S. Bushnell.

Docket No. DR 92-161. Line 5 (Line 1 + Line 2 - Line 3 - Line 4) Line 6 Company Forecast A-93. Line 7 (Line 5/Line 6) Line 8 See Order No. 20,362 in Docket No. DR 91-128. Line 9 (Line 8 - Line 7)

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[TABLE TO BE SHOT] [Attachment 4 - page 2 of 2]

ATTACHMENT 4 PAGE 2 OF 2

GRANITE STATE ELECTRIC 1993 C&LM INCENTIVE CALCULATION Preliminary Estimate*
 TOTAL PLANNED ANNUAL RESIDENTIAL PLANNED ANNUAL C&I
 PLANNED ANNUAL 1 TOTAL PROGRAM VALUE BEFORE ADJUSTMENT \$5,027,179
 \$1,388,376 \$3,638,803 2 NEP EVALUATION COSTS \$122,800 \$21,231 \$101,569 3 CUSTOMER
 DIRECT COST \$163,058 \$0 \$163,058 4 TOTAL ADJUSTED PROGRAM VALUE \$4,741,321
 \$1,367,145 \$3,374,176 5 TOTAL PROGRAM COSTS \$2,830,222 \$902,882 \$1,927,340 6 NET
 VALUE \$1,911,099 \$464,263 \$1,446,836 7 MAXIMIZING
 INCENTIVES \$186,453 \$68,357 \$118,096 8 EFFICIENCY INCENTIVES \$172,465 \$39,591 \$132,874
 9 TOTAL CONSERVATION INCENTIVE \$358,918 \$107,948 \$250,970 10 CUSTOMER
 DIVIDENDS \$1,552,181 \$356,315 \$1,195,866 11 THRESHOLD \$2,443,349 \$436,529 \$2,006,820 *Fi
 nal Estimate will be filed as part of Granite State's Fourth

Quarter Report in Mid February (Docket No. DR 91-128).

LINE 1: SOURCE: DEMAND PLANNING DEPT LINE 2: SOURCE: DEMAND PLANNING DEPT LINE 3: SOURCE: DEMAND PLANNING DEPT LINE 4: (LINE 1 - LINE 2 - LINE 3) LINE 5: SOURCE: C&LM DEPT LINE 6: (LINE 4 - LINE 5), BUT NOT LESS THAN ZERO LINE 7: (5% * LINE 4) for Residential Programs, (3.5% * LINE

4) for C&I Programs LINE 8: (0.1*(LINE 4 -(LINE 7 +LINE 5))) LINE 9: (LINE 7 + LINE 8) LINE 10: (LINE 4 - LINE 5 - LINE 9) LINE 11: (SEE REPORT & ORDER IN DOCKET NO. DR 91-128.

=====

NH.PUC*02/05/93*[74981]*78 NH PUC 82*Concord Electric Company

[Go to End of 74981]

Re Concord Electric Company

Additional respondent: Exeter and Hampton Electric Company

DR 92-184
Order No. 20,743
78 NH PUC 82

New Hampshire Public Utilities Commission

February 5, 1993

Approval of 1993 C&LM Conservation Charges; Order Superseding Order No. 20,718.

BY THE COMMISSION:

ORDER

WHEREAS, on October 15, 1992, Concord Electric Company (CECO) and Exeter and Hampton Electric (E&H) (collectively the Companies) filed with the New Hampshire Public Utilities Commission (the commission) its 1993 Demand Side Management (DSM) Program Plan; and

WHEREAS, on December 22, 1992 the Companies and the staff filed with the commission a Stipulation and Agreement that resolves certain issues and defers certain other issues for further review in January 1993; and

WHEREAS, the resolved issues relate to the continued approval of five DSM programs that were approved in DR 91-158; and

WHEREAS, the deferred issues concern the Companies' request for approval of the two new DSM programs and relate specifically to: (1) the appropriateness of benefit/cost ratio thresholds; and (2) whether customer costs should be included in cost-effectiveness tests and, if so, how such costs should be calculated; and

WHEREAS, the Stipulation also recommends that the following proposed conservation charges for CECO and for E&H, which were set forth on tariffs filed with the Commission on December 2, 1992, be made effective pending the resolution of the two issues reserved for the January, 1993 hearing:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

<i>CECO</i>	<i>E&H</i>	
Domestic D, DE, D-OP		
(for E&H only) and D-TOU		\$0.00111
Regular General Service,		
G2 and G4		\$0.00039
Large General Service, G1		\$0.00129

; and

WHEREAS, at the hearing December 22, 1992, counsel for the Companies informed the commission that the benefit/cost ratio for the Residential Lighting Program had been incorrectly calculated and that the correct figure appeared to indicate that said program was uneconomic; and

WHEREAS, the parties agreed that approval of the Residential Lighting Program be deferred until resolution of the benefit/cost ratio issue in early 1993; and

WHEREAS, the commission finds that the conditions described in the Stipulation, as amended orally to include the Residential Lighting Program issue, are in the public good; it is hereby

ORDERED that the proposed conservation charges for CECO and E&H be temporarily approved subject to final approval.

By order of the Public Utilities Commission this fifth day of February, 1993.

=====

NH.PUC*02/05/93*[74982]*78 NH PUC 82*Public Service Company of New Hampshire

[Go to End of 74982]

Re Public Service Company of New Hampshire

DR 92-232
Order No. 20,744
78 NH PUC 82

New Hampshire Public Utilities Commission
February 5, 1993

ORDER *NISI* Approving Special Contract No. NHPUC-79.

BY THE COMMISSION:

ORDER *NISI*

December 18, 1992, Public Service Company of New Hampshire (PSNH) filed Special Contract No. NHPUC-79 between PSNH and CE-KSB Pump Company (CE-KSB Pump) superseding Contract No. NHPUC-69 that has been in effect since January 1, 1992; and

WHEREAS, the terms of Special Contract NHPUC-79 are identical in every way with Special Contract NHPUC-69 except Special Contract NHPUC-69 extends the termination date by one year to December 31, 1993; and

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WHEREAS, service rendered under this Special Contract consists of PSNH providing interruptible power at a reduced rate to CE-KSB Pump to drive large pumps while they are tested by CE-KSB Pump; and

WHEREAS, CE-KSB Pump must first notify PSNH of its plans to test pumps and specify the amount of interruptible power required to run the pump test as well as inform PSNH of the time and duration of the tests; and

WHEREAS, PSNH intends to treat CE-KSB Pump's Interruptible Load as Type 2 NEPOOL DISPATCHABLE LOAD in accordance with *NEPEX Criteria, Rules and Standards No. 16* thereby providing some benefit to ratepayers during periods of capacity shortages or emergencies; and

WHEREAS, CE-KSB Pump has received service under an interruptible contract since 1978 and CE-KSB Pump receives service from PSNH under Rate LG at all other times; and

WHEREAS, PSNH has the ability to interrupt service provided under NHPUC-79 without any notice to CE-KSB Pump; and

WHEREAS, PSNH has filed a timely compliance report describing the value of the interruptible special contract with CE-KSB Pump; and

WHEREAS, Special Contract NHPUC-79 provides some benefit to PSNH's system load factor as well as retaining a proven interruptible load for PSNH's future capacity needs; it is hereby

ORDERED *NISI* that Special Contract No. NHPUC-79 between PSNH and CE-KSB Pump is approved beginning twenty days from the publication date of this Order and ending December 31, 1994 unless the Commission orders otherwise in a Supplemental Order issued prior thereto; and it is

FURTHER ORDERED, that PSNH provide a report to the Commission by November 1, 1994, detailing the value CE-KSB Pump brings to PSNH's long-term resource plan, the number, nature and time of interruptions called by PSNH as well as the response to calls for interruption by CE-KSB Pump since July 1987; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than February 16, 1993, said publication to be documented by affidavit filed with this office on or before February 23, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order.

By order of the New Hampshire Public Utilities Commission this fifth day of February, 1993.

=====

NH.PUC*02/05/93*[74983]*78 NH PUC 83*New Hampshire Electric Cooperative, Inc.

[Go to End of 74983]

Re New Hampshire Electric Cooperative, Inc.

DR 92-234

Order No. 20,745

78 NH PUC 83

New Hampshire Public Utilities Commission

February 5, 1993

Order *Nisi* Approving Special Contract No. 102.

BY THE COMMISSION:

ORDER

On December 23, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed Special Contract No. 102 between NHEC and Mount Attitash Lift Corporation (Attitash); and

WHEREAS, this Special Contract is intended to provide service under NHEC's 1992-1993 Interruptible Load Program which was filed with the Commission on October 2, 1992; and

WHEREAS, the Commission heard testimony November 20, 1992, on the Joint Settlement in which the parties agreed, *inter alia*, to implement NHEC's 1992-1993 Interruptible Load Program as filed; and

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WHEREAS, on December 3, 1992, the Commission approved the Joint Settlement thereby allowing NHEC to implement the 1992-1993 Interruptible Load Program on a special contract basis; and

WHEREAS, proposed Special Contract No. 102, executed on December 3, 1992, provides for 2,000 kVA of Code 20 Designated Interruptible Load and 1,000 kVA of Code 70 Designated Interruptible Load in accordance with Commission Report and Order 20,694; and

WHEREAS, the Commission has authority under NH RSA 378:18 to approve special contracts for service at rates other than those fixed in the public utility's schedules if special circumstances exist which render departure from the general schedules to be just and consistent with the public interest; and

WHEREAS, the Commission finds the terms and conditions of the proposed Special Contract No. 102 with Attitash are consistent with the public interest; it is hereby

ORDERED *Nisi*, that NHEC be, and hereby is, authorized to implement Special Contract No. 102 effective November 23, 1992, which shall be filed and made public as part of the published schedules of NHEC; and it is

FURTHER ORDERED, that NHEC file which piece of equipment is subject to Code 20 or Code 70 interruptions and the interruptible level of load for each piece of equipment within 7 days of the publication date of this order; and it is

FURTHER ORDERED, that the Commission hereby waives that portion of Puc 1601.02(c), that requires Special Contracts to be filed at least 15 days in advance of the effective date, so that Special Contract No. 102 will be retroactively effective as of November 23, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than Feb. 16, 1993, said publication to be documented by affidavit file with this office on or before March 5, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this fifth day of February, 1993.

=====

NH.PUC*02/05/93*[74984]*78 NH PUC 84*New Hampshire Electric Cooperative, Inc.

[Go to End of 74984]

Re New Hampshire Electric Cooperative, Inc.

DR 92-235

Order No. 20,746

78 NH PUC 84

New Hampshire Public Utilities Commission

February 5, 1993

Order *Nisi* Approving Special Contract No. 103.

BY THE COMMISSION:

ORDER

On December 23, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed Special Contract No. 103 between NHEC and Black Mountain Development Corporation (Black Mountain); and

WHEREAS, this Special Contract is intended to provide service under NHEC's 1992-1993 Interruptible Load Program which was filed with the Commission on October 2, 1992; and

WHEREAS, the Commission heard testimony November 20, 1992, on the Joint Settlement in which the parties agreed, *inter alia*, to implement NHEC's 1992-1993 Interruptible Load Program as filed; and

WHEREAS, on December 3, 1992, the Commission approved the Joint Settlement thereby allowing NHEC to implement the 1992-1993 Interruptible Load Program on a special contract basis; and

Page 84

WHEREAS, proposed Special Contract No. 103, executed on December 3, 1992, provides for 300 kVA of Code 20 Designated Interruptible Load and 1,000 kVA of Code 70 Designated Interruptible Load in accordance with Commission Report and Order 20,694; and

WHEREAS, the Commission has authority under NH RSA 378:18 to approve special contracts for service at rates other than those fixed in the public utility's schedules if special circumstances exist which render departure from the general schedules to be just and consistent with the public interest; and

WHEREAS, the Commission finds the terms and conditions of the proposed Special Contract No. 103 with Black Mountain are consistent with the public interest; it is hereby

ORDERED *Nisi*, that NHEC be, and hereby is, authorized to implement Special Contract No. 103 effective November 23, 1992, which shall be filed and made public as part of the published schedules of NHEC; and it is

FURTHER ORDERED, that NHEC file which piece of equipment is subject to Code 20 or Code 70 interruptions and the interruptible level of load for each piece of equipment within 7 days of the publication date of this order; and it is

FURTHER ORDERED, that the Commission hereby waives that portion of Puc 1601.02(c), that requires Special Contracts to be filed at least 15 days in advance of the effective date, so that Special Contract No. 103 will be retroactively effective as of November 23, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than Feb. 16, 1993, said publication to be documented by affidavit file with this office on or before March 5, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request

an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this fifth day of February, 1993.

=====

NH.PUC*02/05/93*[74985]*78 NH PUC 85*New Hampshire Electric Cooperative, Inc.

[Go to End of 74985]

Re New Hampshire Electric Cooperative, Inc.

DR 92-236

Order No. 20,747

78 NH PUC 85

New Hampshire Public Utilities Commission

February 5, 1993

Order *Nisi* Approving Special Contract No. 104.

BY THE COMMISSION:

ORDER

On December 23, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed Special Contract No. 104 between NHEC and Mount Cranmore, Inc. (Mount Cranmore); and

WHEREAS, this Special Contract is intended to provide service under NHEC's 1992-1993 Interruptible Load Program which was filed with the Commission on October 2, 1992; and

WHEREAS, the Commission heard testimony November 20, 1992, on the Joint Settlement in which the parties agreed, *inter alia*, to implement NHEC's 1992-1993 Interruptible Load Program as filed; and

WHEREAS, on December 3, 1992, the Commission approved the Joint Settlement thereby allowing NHEC to implement the 1992-1993 Interruptible Load Program on a special contract basis; and

WHEREAS, proposed Special Contract No. 104, executed on December 3, 1992, provides for 2,383 kVA of Code 20 Designated Interruptible Load and 1,442 kVA of Code 70 Designated Interruptible Load in accordance with Commission Report and Order 20,694; and

WHEREAS, the Commission has authority under NH RSA 378:18 to approve special

contracts for service at rates other than those fixed in the public utility's schedules if special circumstances exist which render departure

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from the general schedules to be just and consistent with the public interest; and

WHEREAS, the Commission finds the terms and conditions of the proposed Special Contract No. 104 with Mount Cranmore are consistent with the public interest; it is hereby

ORDERED *Nisi*, that NHEC be, and hereby is, authorized to implement Special Contract No. 104 effective November 23, 1992, which shall be filed and made public as part of the published schedules of NHEC; and it is

FURTHER ORDERED, that NHEC file which piece of equipment is subject to Code 20 or Code 70 interruptions and the interruptible level of load for each piece of equipment within 7 days of the publication date of this order; and it is

FURTHER ORDERED, that the Commission hereby waives that portion of Puc 1601.02(c), that requires Special Contracts to be filed at least 15 days in advance of the effective date, so that Special Contract No. 104 will be retroactively effective as of November 23, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than Feb. 16, 1993, said publication to be documented by affidavit file with this office on or before March 5, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this fifth day of February, 1993.

=====

NH.PUC*02/05/93*[74986]*78 NH PUC 86*New Hampshire Electric Cooperative, Inc.

[Go to End of 74986]

Re New Hampshire Electric Cooperative, Inc.

DR 92-237
Order No. 20,748

78 NH PUC 86

New Hampshire Public Utilities Commission

February 5, 1993

Order *Nisi* Approving Special Contract No. 105.

BY THE COMMISSION:

ORDER

On December 23, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed Special Contract No. 105 between NHEC and Loon Mountain Recreation Corporation (Loon Mountain); and

WHEREAS, this Special Contract is intended to provide service under NHEC's 1992-1993 Interruptible Load Program which was filed with the Commission on October 2, 1992; and

WHEREAS, the Commission heard testimony November 20, 1992, on the Joint Settlement in which the parties agreed, *inter alia*, to implement NHEC's 1992-1993 Interruptible Load Program as filed; and

WHEREAS, on December 3, 1992, the Commission approved the Joint Settlement thereby allowing NHEC to implement the 1992-1993 Interruptible Load Program on a special contract basis; and

WHEREAS, proposed Special Contract No. 105, executed on December 3, 1992, provides for 2,000 kVA of Code 20 Designated Interruptible Load and 1,000 kVA of Code 70 Designated Interruptible Load in accordance with Commission Report and Order 20,694; and

WHEREAS, the Commission has authority under NH RSA 378:18 to approve special contracts for service at rates other than those fixed in the public utility's schedules if special circumstances exist which render departure from the general schedules to be just and consistent with the public interest; and

WHEREAS, the Commission finds the terms and conditions of the proposed Special Contract No. 105 with Loon Mountain are consistent with the public interest; it is hereby

ORDERED *Nisi*, that NHEC be, and hereby is, authorized to implement Special Contract No. 105 effective November 23, 1992, which shall be filed and made public as part of the published schedules of NHEC; and it is

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FURTHER ORDERED, that NHEC file which piece of equipment is subject to Code 20 or Code 70 interruptions and the interruptible level of load for each piece of equipment within 7 days of the publication date of this order; and it is

FURTHER ORDERED, that the Commission hereby waives that portion of Puc 1601.02(c), that requires Special Contracts to be filed at least 15 days in advance of the effective date, so that Special Contract No. 105 will be retroactively effective as of November 23, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than February 16, 1993, said publication to be documented by affidavit file with this office on or before March 5, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this fifth day of February, 1993.

=====

NH.PUC*02/05/93*[74987]*78 NH PUC 87*New Hampshire Electric Cooperative, Inc.

[Go to End of 74987]

Re New Hampshire Electric Cooperative, Inc.

DR 92-238

Order No. 20,749

78 NH PUC 87

New Hampshire Public Utilities Commission

February 5, 1993

Order *Nisi* Approving Special Contract No. 106.

BY THE COMMISSION:

ORDER

On December 23, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed Special Contract No. 106 between NHEC and the Waterville Company, Inc. (Waterville); and

WHEREAS, this Special Contract is intended to provide service under NHEC's 1992-1993 Interruptible Load Program which was filed with the Commission on October 2, 1992; and

WHEREAS, the Commission heard testimony November 20, 1992, on the Joint Settlement in which the parties agreed, *inter alia*, to implement NHEC's 1992-1993 Interruptible Load Program as filed; and

WHEREAS, on December 3, 1992, the Commission approved the Joint Settlement thereby

allowing NHEC to implement the 1992-1993 Interruptible Load Program on a special contract basis; and

WHEREAS, proposed Special Contract No. 106, executed on December 3, 1992, provides for 1,300 kVA of Code 70 Designated Interruptible Load in accordance with Commission Report and Order 20,694; and

WHEREAS, the Commission has authority under NH RSA 378:18 to approve special contracts for service at rates other than those fixed in the public utility's schedules if special circumstances exist which render departure from the general schedules to be just and consistent with the public interest; and

WHEREAS, the Commission finds the terms and conditions of the proposed Special Contract No. 106 with Waterville are consistent with the public interest; it is hereby

ORDERED *Nisi*, that NHEC be, and hereby is, authorized to implement Special Contract No. 106 effective November 23, 1992, which shall be filed and made public as part of the published schedules of NHEC; and it is

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FURTHER ORDERED, that NHEC file which piece of equipment is subject to Code 20 or Code 70 interruptions and the interruptible level of load for each piece of equipment within 7 days of the publication date of this order; and it is

FURTHER ORDERED, that the Commission hereby waives that portion of Puc 1601.02(c), that requires Special Contracts to be filed at least 15 days in advance of the effective date, so that Special Contract No. 106 will be retroactively effective as of November 23, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than February 16, 1993, said publication to be documented by affidavit file with this office on or before March 5, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this fifth day of February, 1993.

=====

NH.PUC*02/05/93*[74988]*78 NH PUC 88*New Hampshire Electric Cooperative, Inc.

[Go to End of 74988]

Re New Hampshire Electric Cooperative, Inc.

DR 92-239
Order No. 20,750

78 NH PUC 88

New Hampshire Public Utilities Commission

February 5, 1993

Order *Nisi* Approving Special Contract No. 107.

BY THE COMMISSION:

ORDER

On December 23, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed Special Contract No. 107 between NHEC and the Hart's Turkey Farm Restaurant (Hart's Restaurant); and

WHEREAS, this Special Contract is intended to provide service under NHEC's 1992-1993 Interruptible Load Program which was filed with the Commission on October 2, 1992; and

WHEREAS, the Commission heard testimony November 20, 1992, on the Joint Settlement in which the parties agreed, *inter alia*, to implement NHEC's 1992-1993 Interruptible Load Program as filed; and

WHEREAS, on December 3, 1992, the Commission approved the Joint Settlement thereby allowing NHEC to implement the 1992-1993 Interruptible Load Program on a special contract basis; and

WHEREAS, proposed Special Contract No. 107, executed on December 3, 1992, provides for 100 kVA of Code 70 Designated Interruptible Load in accordance with Commission Report and Order 20,694; and

WHEREAS, the Commission has authority under NH RSA 378:18 to approve special contracts for service at rates other than those fixed in the public utility's schedules if special circumstances exist which render departure from the general schedules to be just and consistent with the public interest; and

WHEREAS, the Commission finds the terms and conditions of the proposed Special Contract No. 107 with Hart's Restaurant are consistent with the public interest; it is hereby **ORDERED *Nisi***, that NHEC be, and hereby is, authorized to implement Special Contract No. 107 effective November 23, 1992, which shall be filed and made public as

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part of the published schedules of NHEC; and it is

FURTHER ORDERED, that NHEC file which piece of equipment is subject to Code 20 or

Code 70 interruptions and the interruptible level of load for each piece of equipment within 7 days of the publication date of this order; and it is

FURTHER ORDERED, that the Commission hereby waives that portion of Puc 1601.02(c), that requires Special Contracts to be filed at least 15 days in advance of the effective date, so that Special Contract No. 107 will be retroactively effective as of November 23, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than February 16, 1993, said publication to be documented by affidavit file with this office on or before March 5, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this fifth day of February, 1993.

=====

NH.PUC*02/05/93*[74989]*78 NH PUC 89*New Hampshire Electric Cooperative, Inc.

[Go to End of 74989]

Re New Hampshire Electric Cooperative, Inc.

DR 92-240
Order No. 20,751
78 NH PUC 89

New Hampshire Public Utilities Commission
February 5, 1993

Order *Nisi* Approving Special Contract No. 108.

BY THE COMMISSION:

ORDER

On December 23, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed Special Contract No. 108 between NHEC and the Black Mountain Development Corporation (Black Mountain); and

WHEREAS, this Special Contract is intended to provide service under NHEC's 1992-1993

Interruptible Load Program which was filed with the Commission on October 2, 1992; and

WHEREAS, the Commission heard testimony November 20, 1992, on the Joint Settlement in which the parties agreed, *inter alia*, to implement NHEC's 1992-1993 Interruptible Load Program as filed; and

WHEREAS, on December 3, 1992, the Commission approved the Joint Settlement thereby allowing NHEC to implement the 1992-1993 Interruptible Load Program on a special contract basis; and

WHEREAS, proposed Special Contract No. 108, executed on December 3, 1992, provides for 200 kW of Code 20 Designated Interruptible Load in accordance with Commission Report and Order 20,694; and

WHEREAS, the Commission has authority under NH RSA 378:18 to approve special contracts for service at rates other than those fixed in the public utility's schedules if special circumstances exist which render departure from the general schedules to be just and consistent with the public interest; and

WHEREAS, the Commission finds the terms and conditions of the proposed Special Contract No. 108 with Black Mountain are consistent with the public interest; it is hereby ORDERED *Nisi*, that NHEC be, and hereby is, authorized to implement Special Contract No. 108 effective November 23, 1992, which shall be filed and made public as

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part of the published schedules of NHEC; and it is

FURTHER ORDERED, that NHEC file which piece of equipment is subject to Code 20 or Code 70 interruptions and the interruptible level of load for each piece of equipment within 7 days of the publication date of this order; and it is

FURTHER ORDERED, that the Commission hereby waives that portion of Puc 1601.02(c), that requires Special Contracts to be filed at least 15 days in advance of the effective date, so that Special Contract No. 108 will be retroactively effective as of November 23, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than February 16, 1993, said publication to be documented by affidavit file with this office on or before March 5, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this fifth day of February, 1993.

=====

NH.PUC*02/05/93*[74990]*78 NH PUC 90*New Hampshire Electric Cooperative, Inc.

[Go to End of 74990]

Re New Hampshire Electric Cooperative, Inc.

DR 92-241
Order No. 20,752
78 NH PUC 90

New Hampshire Public Utilities Commission

February 5, 1993

Order *Nisi* Approving Special Contract No. 109.

BY THE COMMISSION:

ORDER

On December 23, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed Special Contract No. 109 between NHEC and the High View Church Farms (High View); and

WHEREAS, this Special Contract is intended to provide service under NHEC's 1992-1993 Interruptible Load Program which was filed with the Commission on October 2, 1992; and

WHEREAS, the Commission heard testimony November 20, 1992, on the Joint Settlement in which the parties agreed, *inter alia*, to implement NHEC's 1992-1993 Interruptible Load Program as filed; and

WHEREAS, on December 3, 1992, the Commission approved the Joint Settlement thereby allowing NHEC to implement the 1992-1993 Interruptible Load Program on a special contract basis; and

WHEREAS, proposed Special Contract No. 109, executed on December 3, 1992, provides for 250 kW of Code 20 Designated Interruptible Load and 250 kW of Code 70 Designated Interruptible Load in accordance with Commission Report and Order 20,694; and

WHEREAS, the Commission has authority under NH RSA 378:18 to approve special contracts for service at rates other than those fixed in the public utility's schedules if special circumstances exist which render departure from the general schedules to be just and consistent with the public interest; and

WHEREAS, the Commission finds the terms and conditions of the proposed Special Contract No. 109 with High View are consistent with the public interest; it is hereby ORDERED *Nisi*, that NHEC be, and hereby is, authorized to implement Special Contract No. 109 effective November 23,

1992, which shall be filed and made public as part of the published schedules of NHEC; and it is

FURTHER ORDERED, that NHEC file which piece of equipment is subject to Code 20 or Code 70 interruptions and the interruptible level of load for each piece of equipment within 7 days of the publication date of this order; and it is

FURTHER ORDERED, that the Commission hereby waives that portion of Puc 1601.02(c), that requires Special Contracts to be filed at least 15 days in advance of the effective date, so that Special Contract No. 109 will be retroactively effective as of November 23, 1992; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than February 16, 1993, said publication to be documented by affidavit file with this office on or before March 5, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 20 days after the publication date of this Order unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this February 5, 1993.

=====

NH.PUC*02/08/93*[74991]*78 NH PUC 91*Pennichuck Water Works, Inc.

[Go to End of 74991]

Re Pennichuck Water Works, Inc.

DR 92-220
Order No. 20,753
78 NH PUC 91

New Hampshire Public Utilities Commission

February 8, 1993

Suspension Order and Establishment of Prehearing Conference.

BY THE COMMISSION:

ORDER

On January 15, 1993, Pennichuck Water Works, Inc. (Pennichuck or the Company) submitted revised tariff pages which, if allowed to go into effect would result in an increase in its permanent rates; and

WHEREAS, the company is requesting for its Nashua and Amherst core customers an increase of \$1,960,535.00 in gross annual revenues; and

WHEREAS, the proposed increase on a permanent basis constitutes a 24.38% increase over its present annual revenues; and

WHEREAS, these additional revenues are proposed to be received from increases in rates for metered, unmetered, municipal and private fire protection service and the Town of Milford contract; and

WHEREAS, the company is presently completing a cost of service study which may result in changes to existing rates for the services listed above greater or less than the overall 24.38% increase for Pennichuck's Nashua and Amherst core customers; and

WHEREAS, the proposed tariff pages were filed with the commission for effect on February 15, 1993; and

WHEREAS, coincident with the request for an increase in its permanent rates, Pennichuck submitted a petition for temporary rate relief should the Commission suspend the proposed permanent rate request; and

WHEREAS, the temporary rate request would yield additional annual revenues of \$717,804.00 (or an increase of 9.07% to all rate services) over its currently effective rate levels; and

WHEREAS, the petitioner requested the temporary rate hearing be held at the same time as the procedural hearing in this matter; it is hereby

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ORDERED, that NHPUC No.4, Pennichuck Water Works, Inc.'s,

20th Revised Page 21

23rd Revised Page 22

9th revised page 22A

23rd Revised Page 23

23rd Revised Page 24;

be and hereby are suspended; and it is

FURTHER ORDERED, that a prehearing conference to address the procedural matters governing the pendency of this proceeding, be held before the commission at its offices at 8 Old Suncook Road, Concord, New Hampshire at 10:00 a.m. on the twenty-sixth day of February, 1993; and it is

FURTHER ORDERED, that at the prehearing conference a date be set for a temporary rate hearing, thereby allowing parties granted intervenor status as well as other interested persons an opportunity to review the company's temporary rate request and to be heard as to whether or not the commission should establish temporary rates; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rule Puc 203.01, that the petitioner notify all persons desiring to be heard and that they should appear at the said hearing where they may be heard on the question of whether the proposed revenue increase is in the public good, by causing an attested copy of this order to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed, such publication to be no later than February 12, 1993; and it is

FURTHER ORDERED, that Pennichuck provide, pursuant to RSA 541- A:22, a copy of this order to the Nashua, Amherst and Milford Town/City Clerks by first class U.S. mail, post marked on or before February 12, 1993; and it is

FURTHER ORDERED, that Pennichuck document compliance with these notice provisions by affidavits to be filed with the commission on or before February 26, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 541-a: 17, and PUC 203.202, any party seeking to intervene in the proceeding must submit an original motion and 8 copies to the commission with a copy to the petitioner, on or before February 23, 1993.

By order of the New Hampshire Public Utilities Commission this eighth day of February, 1993.

=====

NH.PUC*02/08/93*[74992]*78 NH PUC 92*Communications Gateway Network, Inc.

[Go to End of 74992]

Ax

Re Communications Gateway Network, Inc.

DE 92-145
Order No. 20,754
78 NH PUC 92

New Hampshire Public Utilities Commission

February 8, 1993

Order Confirming Denial of Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On July 23, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Communications Gateway Network, Inc. (CGN), a Delaware corporation, for authority to do business as a telecommunications utility in the State of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, the Staff of the Commission (Staff) and CGN engaged in substantial discovery; and

WHEREAS, our Order 20,657, Denial of Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire, identified defects in CGN's filing; and

WHEREAS, CGN filed a letter in response to the Commission's denial of CGN's petition, Order 20,657 and the Commission found it in the public good to accept the letter as a timely filed Motion for Rehearing; and

WHEREAS, our Order 20,690, Order Granting Motion for Rehearing and Suspending Order 20,657, granted CGN additional opportunity to be heard, found it in the public good to grant CGN a reasonable opportunity to cure the defects identified, and ordered that CGN shall fully and expeditiously demonstrate to the Staff, satisfaction of the defects identified, within forty-five days, and directed Staff to review the discovery and prepare a recommendation for the Commission within sixty days; and

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WHEREAS, Staff has reviewed the discovery collected during, and also beyond, the forty-five day period, and Staff timely submitted its recommendation to the Commission; and

WHEREAS, the Staff Recommendation is to deny CGN's application, based on grounds of:

(1) CGN's failure to "[f]ully and expeditiously demonstrate to Staff satisfaction of the defects identified in Order 20,657, within forty-five days of this order; [of December 1, 1992],"

(2) CGN's failure to evidence financial fitness,

(3) CGN's failure to evidence managerial ability; and

ORDERED, that CGN is denied authority to offer intrastate, long- distance telephone service in the State of New Hampshire.

By order of the New Hampshire Public Utilities Commission this eighth day of February, 1993.

=====

NH.PUC*02/09/93*[74993]*78 NH PUC 93*AT&T Communications of New Hampshire Inc.

[Go to End of 74993]

Re AT&T Communications of New Hampshire Inc.

DE 93-007
Order No. 20,755
78 NH PUC 93

New Hampshire Public Utilities Commission

February 9, 1993

Order *Nisi* Approving AT&T Residence Customer Promotion.

BY THE COMMISSION:

ORDER

On January 19, 1993 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce AT&T Residence Customer Promotion. WHEREAS, AT&T proposed to offer the promotion from January 1, 1993 through December 31, 1993; and

WHEREAS, the promotion will allow AT&T to offer travel awards or AT&T Long Distance Certificates to residence customers who earn points when they attain a specified dollar amount or more in total average monthly billing for AT&T Long Distance Service; and WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 9, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than February 22, 1993 and is to be documented by affidavit filed with this office on or before March 9, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of AT&T Tariff PUC No. 4 - LONG DISTANCE SERVICE, are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Section 1 -Original Page 28.2

and it is FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this ninth day of February, 1993.

=====

NH.PUC*02/09/93*[74994]*78 NH PUC 94*MLDA, Inc. (Members Long Distance Advantage)

[Go to End of 74994]

Re MLDA, Inc. (Members Long Distance Advantage)

DE 92-007

Order No. 20,756

78 NH PUC 94

New Hampshire Public Utilities Commission

February 9, 1993

Order *NISI* Granting Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On January 9, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Trans National Communications, Inc., d/b/a Members Long Distance Advantage, since incorporated in New Hampshire as MLDA, Inc. for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, MLDA proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

WHEREAS, the Commission finds that MLDA demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the

Commission no later than March 9, 1993; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than February 22, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before March 9, 1993; and it is

FURTHER ORDERED, *NISI*, that MLDA hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions:

1. that said services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so-called competition docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis;
2. that MLDA shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis;
3. that MLDA shall file tariffs for new services and changes in existing services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;
4. that MLDA shall notify the Commission of a change in rates to be charged the public within one day after offering service at a rate other than the rates on file with the Commission;
5. that MLDA shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H.

Page 94

Admin. Rules, Puc Chapter 400, except those specifically waived above;

6. that MLDA shall be subject to all reporting requirements contained in RSA 374:15-19;
7. that MLDA shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission;
8. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;
9. that MLDA shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, MLDA shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis;
10. that MLDA shall report revenues associated with each service on a monthly basis;
11. that MLDA shall report the number of customers on a monthly basis;

12. that MLDA shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow MLDA to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, MLDA file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this ninth day of February, 1993.

=====

NH.PUC*02/09/93*[74995]*78 NH PUC 95*AT&T Communications of New Hampshire Inc.

[Go to End of 74995]

Re AT&T Communications of New Hampshire Inc.

DE 92-242

Order No. 20,757

78 NH PUC 95

New Hampshire Public Utilities Commission

February 9, 1993

Order *Nisi* Approving AT&T MultiQuest Express 900 Service.

BY THE COMMISSION:

ORDER

On December 23, 1992 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce AT&T MultiQuest Express 900 Service as an option to the existing AT&T MultiQuest Service.

WHEREAS, AT&T proposed the filing become effective January 27, 1993; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire

customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written

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request for a hearing on this matter before the Commission no later than March 9, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than February 22, 1993 and is to be documented by affidavit filed with this office on or before March 9, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of AT&T Tariff PUC No. 1 - CUSTOM NETWORK SERVICES, are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Table of Contents - Original Page 17
Section 6 - 1st Revised Page 5
Section 15 - Original Pages 1 through 5

and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this ninth day of February, 1993.

=====

NH.PUC*02/09/93*[74996]*78 NH PUC 96*MCI Telecommunications Corporation

[Go to End of 74996]

Re MCI Telecommunications Corporation

DE 93-002
Order No. 20,758

78 NH PUC 96

New Hampshire Public Utilities Commission

February 9, 1993

Order *Nisi* Approving MCI Revisions to MCI 800 and Preferred Services.

BY THE COMMISSION:

ORDER

On January 4, 1993 MCI Telecommunications Corporation (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to reduce the Direct Termination rate for MCI 800 Service and to introduce the Friends of the Firm discount program to Preferred customers. WHEREAS, MCI proposed the filing become effective February 4, 1993; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 9, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, MCI cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than February 22, 1993 and is to be documented by affidavit filed with this office on or before March 9, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of MCI Tariff PUC No. 1 - INTRASTATE TELECOMMUNICATIONS SERVICES, are approved:

Page 96

Fifteenth Revised Page 1

Eighth Revised Page 3

Ninth Revised Page 3.1

Second Revised Page 37

Fourth Revised Page 59

and it is

FURTHER ORDERED, that MCI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this ninth day of February, 1993.

=====

NH.PUC*02/10/93*[74997]*78 NH PUC 97*New England Telephone

[Go to End of 74997]

Re New England Telephone

DR 92-217
Order No. 20,759
78 NH PUC 97

New Hampshire Public Utilities Commission

February 10, 1993

Order Authorizing Approval of Revisions to NET's Selective Blocking Service Tariff.

BY THE COMMISSION:

ORDER

WHEREAS, on November 16, 1992, New England Telephone (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to expand the availability of Selective Blocking Service (SBS) to include multi-line business, PBX, Centrex, and Foreign Exchange customers where the option is available and sufficient facilities exist, for effect December 16, 1992; and

WHEREAS, on November 30, 1992 the proposed tariff pages were suspended by Order No. 20,686 to allow for further investigation; and

WHEREAS, the Commission staff has investigated this matter including the petition and responses to staff data requests; and

WHEREAS, upon review of the petition and the staff recommendation, the Commission finds the proposed offering to be in the public good; it is hereby

ORDERED, that the following tariff pages of New England Telephone are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC - No. 75
Part A - Section 6
-
Section 7 -
-

and it is
FURTHER ORDERED, that the above tariff pages shall be effective as
of the date of this order; and it is
FURTHER ORDERED, that the rates for this service be subject to
review following the completion of the incremental cost study in
April 1993; and it is
FURTHER ORDERED, that if review of the incremental cost study and
subsequent discovery indicate that the rates are below their
incremental costs, NET stockholders will make up the deficiency
between the rates charged and the incremental costs, for the period
during which the rates for this service did not cover their costs;
and it is
FURTHER ORDERED, that the above additions to NHPUC No. 75 Tariff
be resubmitted as required by Puc 1601.05 (k).
By order of the New Hampshire Public Utilities Commission this
tenth day of February, 1993.

NH.PUC*02/10/93*[74998]*78 NH PUC 98*Sprint Telecommunications Corporation

[Go to End of 74998]

Re Sprint Telecommunications Corporation

DE 93-004
Order No. 20,760
78 NH PUC 98

New Hampshire Public Utilities Commission

February 10, 1993

Order Requiring Sprint to Notify Relay Customers of Erroneous Toll Charges for Local Calls.

BY THE COMMISSION:

ORDER

From July through October 1992, Sprint charged customers for certain local calls placed through Relay New Hampshire as if they were toll calls.

WHEREAS, Sprint is required by its franchise agreement with the New Hampshire Public Utilities Commission (Commission) to bill calls made through the Relay Center from the originating telephone number to the terminating telephone number as if the call were made directly; and

WHEREAS, local calls made directly do not incur toll charges; and

WHEREAS, Sprint is unable to identify which specific local calls were billed as toll calls from the period July through October 1992; it is hereby

ORDERED, Sprint shall place an advertisement, on or before February 28, 1993, no smaller than one quarter page in local newspapers having circulation in metropolitan areas of the state

including Berlin, Concord, Laconia, Keene, Manchester, Nashua and the Seacoast explaining the billing error and how customers may receive refunds; and it is

FURTHER ORDERED, Sprint shall document compliance with the above notice provision by affidavit to filed with the commission on or before March 8, 1993; and it is

FURTHER ORDERED, that the Commission Staff review and concur the content of the advertisement before publication; and it is

FURTHER ORDERED, that Sprint incur the cost of the advertising campaign rather than charging this expense to its outreach program in New Hampshire.

By Order of the New Hampshire Public Utilities Commission this tenth day of February, 1993.

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NH.PUC*02/10/93*[74999]*78 NH PUC 98*AT&T Communications of New Hampshire Inc.

[Go to End of 74999]

Re AT&T Communications of New Hampshire Inc.

DE 93-011
Order No. 20,761
78 NH PUC 98

New Hampshire Public Utilities Commission
February 10, 1993

Order *Nisi* Approving AT&T ALL PROsm WATS.

BY THE COMMISSION:

ORDER

On January 22, 1993 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce AT&T ALL PRO WATS as an add-on to its interstate AT&T PRO WATS Service. WHEREAS, AT&T proposed the filing become effective February 22, 1993; and

WHEREAS, AT&T ALL PRO WATS is an optional calling plan for business customers which provides economically priced rates for all AT&T ALL PRO WATS intrastate direct dial calls; and WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in

opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 10, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than February 23, 1993 and is to be documented by affidavit filed with this office on or before March 10, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of AT&T Tariff PUC No. 4 - LONG DISTANCE SERVICE, are approved:

Page 98

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Title Page:	1st Revised
Table of Contents:	1st Revised Page 1 Original Page 7
Tariff Information:	1st Revised Page 1 1st Revised Page 4
Section 3:	Original Page 1 Original Page 2 Original Page 3 Original Page 4 Original Page 5 Original Page 6 Original Page 7

;and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this tenth day of February, 1993.

=====

NH.PUC*02/10/93*[75000]*78 NH PUC 99*AT&T Communications of New Hampshire Inc.

[Go to End of 75000]

Re AT&T Communications of New Hampshire Inc.

DE 93-020
Order No. 20,762

78 NH PUC 99

New Hampshire Public Utilities Commission

February 10, 1993

Order *Nisi* Approving AT&T UniPlansm.

BY THE COMMISSION:

ORDER

On January 29, 1993 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce the Integrated Outbound and Inbound Calling Option (UniPlan[ServiceMark]) as an enhanced feature to AT&T MEGACOM Plus service. WHEREAS, AT&T proposed the filing become effective March 1, 1993; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 10, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than February 23, 1993 and is to be documented by affidavit filed with this office on or before March 10, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of AT&T Tariff PUC No. 1 - CUSTOM NETWORK SERVICES, are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Table of Contents: 1st Revised Page 5.1
Section 3: 1st Revised Page 11
Original Page 12

and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this tenth day of February, 1993.

=====

NH.PUC*02/10/93*[75001]*78 NH PUC 100*The Phillips Exeter Academy

[Go to End of 75001]

Re The Phillips Exeter Academy

DE 93-010

Order No. 20,763

78 NH PUC 100

New Hampshire Public Utilities Commission

February 10, 1993

Order *Nisi* Granting Authorization for a Crossing of The Phillips Exeter Academy Over Little River in the Town of Exeter, New Hampshire.

BY THE COMMISSION:

ORDER

On January 15, 1993 The Phillips Exeter Academy (petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 for the licensing of an existing aerial electric line crossing over public waters in the Town of Exeter, New Hampshire; and

WHEREAS, the original electric line crossing over the Exeter River and the Little River was installed in 1967; and

WHEREAS, the Exeter River crossing was licensed at that time by Order No. 8725 under D-E4608; and

WHEREAS, a review of the two crossings disclosed that the Little River facility had not been initially licensed; and

WHEREAS, the Little River crossing consists of aerial three phase 336.4 Kcmil all aluminum conductors operated at 34.5 kV from Phillips Exeter Academy pole E on the northeast side of Little River to Phillips Exeter Academy pole F on the northwest side of Little River, a span of approximately 200 feet; and

WHEREAS, a map and profile of the crossing are on file with this commission; and

WHEREAS, the electric line clearance as depicted on Phillips Exeter Academy drawing PEA-1 Revision 1 meets the requirements of the National Electrical Safety Code; and

WHEREAS, the electric line crossings provide electric service to The Phillips Exeter Academy Substation on the northern side of the Little River; and

WHEREAS, the Commission finds the above installation and maintenance is necessary to

enable the petitioner to provide service, without substantially affecting the public rights in or above said waters, and, thus, it is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 10, 1993; and it is

FURTHER ORDERED, that the petitioner effect said notification by: (1) Causing an attested copy of this order to be published no later than February 23, 1993, once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Exeter area; (2) Providing, pursuant to RSA 541- A:22, a copy of this order to the Exeter Town Clerk, by First Class U.S. mail, postmarked on or before February 23, 1993; and (3) Documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before March 10, 1993; and it is

FURTHER ORDERED *NISI*, that license be, and hereby is granted, pursuant to RSA 371:17 *et seq.* to The Phillips Exeter Academy, Exeter, New Hampshire, 03833 for the installation and maintenance of the aforementioned crossing of an aerial electric line over the Little River in the Town of Exeter, New Hampshire, effective March 12, 1993 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to requirements of the National Electrical Safety Code and other applicable codes mandated by the Town of Exeter.

By order of the New Hampshire Public Utilities Commission this tenth day of February, 1993.

=====

NH.PUC*02/16/93*[75002]*78 NH PUC 101*Pennichuck Water Works, Inc.

[Go to End of 75002]

Re Pennichuck Water Works, Inc.

DR 92-177

Order No. 20,764

78 NH PUC 101

New Hampshire Public Utilities Commission

February 16, 1993

NISI Order approving the petition to provide water service to all but the Souhegan Woods Area in the Town of Amherst.

BY THE COMMISSION:

ORDER

On September 23, 1992, Pennichuck Water Works, Inc. (Pennichuck) filed a petition to engage in the business of providing water service in a portion of the Town of Amherst, New Hampshire known as Amherst Village District and to establish rates therein; and

WHEREAS, on November 16, 1992, the Commission approved, by order *Nisi*, authority to allow Pennichuck to provide water service to the Amherst Village District; and

WHEREAS, the requisite Department of Environmental Services information concerning Pennichuck's ability to provide water service for the entire Town of Amherst, with the exception of the Souhegan Woods Area, has been submitted; and

WHEREAS, the Commission finds that approving the petitioner's request to serve the entire Town of Amherst, with the exception of the Souhegan Woods Area is in the public good; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing before the Commission by March 16, 1993; and it is

FURTHER ORDERED, that Pennichuck effect said notification by (1) causing an attested copy of this order to be published no later than March 1, 1993, once in a newspaper having statewide circulation and once in a newspaper having general circulation in the Amherst area; (2) providing, pursuant to RSA 541-A:22, a copy of this order to the Amherst Town Clerk by first class US mail, postmarked on or before March 1, 1993; (3) documenting compliance with these notice provisions by affidavit(s), to be filed with the Commission on or before March 16, 1993; and it is

FURTHER ORDERED *NISI*, that authority be, and hereby is granted to Pennichuck Water Works, Inc., to engage as a public utility in the Town of Amherst with the exception of Souhegan Woods Development; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this sixteenth day of February, 1993.

=====

NH.PUC*02/16/93*[75003]*78 NH PUC 101*Northern Utilities, Inc.

[Go to End of 75003]

Re Northern Utilities, Inc.

DF 93-005
Order No. 20,765
78 NH PUC 101

New Hampshire Public Utilities Commission

February 16, 1993

Order Granting Authority to Issue and Sell Short-Term Notes Not to Exceed \$10,000,000.

BY THE COMMISSION:

ORDER

WHEREAS, on January 14, 1993, Northern Utilities, Inc. filed a petition for authority to issue and sell short-term notes not to exceed \$10,000,000, until such time that Northern Utilities, Inc. is able to obtain additional permanent financing through the issuance of long-term debt securities; and

WHEREAS, Northern Utilities, Inc. had, at November 30, 1992, actual outstanding short term notes payable of \$5,600,000; and

WHEREAS, Northern Utilities, Inc. estimates that its capital expenditures for the twelve month period ending November 30, 1993 to be \$11,500,000, and

WHEREAS, Northern Utilities, Inc., as of November 30, 1992 had a net fixed capital balance of \$64,206,711 against which it would be entitled to have outstanding \$6,420,671 of short term notes under Commission Order No. 7446; and

WHEREAS, Northern Utilities, Inc. is requesting an increase to \$10,000,000 of short term debt on an interim basis; it is hereby

ORDERED, that the authority to issue and sell short term debt at a level not to exceed

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\$10,000,000 is extended effective February 15, 1993 until all necessary approvals have been received for the long-term debt; and it is

FURTHER ORDERED, that Northern Utilities, Inc. shall, on January 1st and July 1st of each year, file with this Commission a detailed statement, duly sworn to by its Treasurer, showing the disposition of proceeds of the short term debt.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of February, 1993.

=====

NH.PUC*02/16/93*[75004]*78 NH PUC 102*ATC New Hampshire, Inc.

[Go to End of 75004]

Re ATC New Hampshire, Inc.

DE 93-025
Order No. 20,766
78 NH PUC 102

New Hampshire Public Utilities Commission

February 16, 1993

Order *Nisi* Approving Text Revisions to Timing of Calls.

BY THE COMMISSION:

ORDER

On February 10, 1993 ATC New Hampshire, Inc. (ATC) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to make text revisions to NHPUC Tariff No. 1, Section 3.1 -

Timing of Calls.

WHEREAS, ATC proposed the filing become effective March 8, 1993; and

WHEREAS, the filing will not increase any rate or charge, cause the withdrawal of service nor conflict with other schedules or rules; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 16, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, ATC cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than March 1, 1993 and is to be documented by affidavit filed with this office on or before March 16, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of ATC Tariff PUC No. 1 are approved:

2nd Revised Page 1.1

1st Revised Page 21

and it is

FURTHER ORDERED, that ATC file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective

date.

By order of the New Hampshire Public Utilities Commission this sixteenth day of February, 1993.

=====

NH.PUC*02/16/93*[75005]*78 NH PUC 102*Concord Electric Company

[Go to End of 75005]

Re Concord Electric Company

Additional respondent: Exeter and Hampton Electric Company

DR 92-184

Order No. 20,767

78 NH PUC 102

New Hampshire Public Utilities Commission

February 16, 1993

1993 Demand-side Management Plan; Report and Order Approving Implementation of New Programs.

Appearances: LeBoeuf, Lamb, Leiby & MacRae by Paul B. Dexter, Esq. for Concord Electric Company and Exeter & Hampton Electric Company; and Susan Chamberlin, Esq. on behalf of the staff of the Public Utilities Commission.

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BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On October 2, 1992 the commission issued an Order of Notice which scheduled a prehearing conference for October 20, 1992 to establish a procedural schedule in the above referenced docket. On October 15, 1992 Concord Electric Company and Exeter & Hampton Electric Company (the "Companies") filed their 1993 Demand-Side Management (DSM) Program Plan and the testimony of Ms. Marianne Graham Messe in compliance with the provisions of Order No. 20,477 in Docket DR 91-158.

On October 19, 1992, Mr. Maurice Lamy of RPL Enterprises filed a letter with the commission seeking limited intervenor status in DR 92-184. The request was granted during the course of the December 22, 1992 hearing.

At the October 20, 1992 procedural hearing the parties agreed to a procedural schedule

which the commission approved by Report and Order No. 20,676 on November 23, 1992. The schedule provided dates for the submission of testimony from the staff and intervenors, data requests, data responses, one technical session and a December 22, 1992 hearing. On December 8, 1992 staff made a written request for modification of said schedule to include a second technical session on December 10, 1992.

Due to the need for further analysis by the Companies of several issues raised by staff relating to the proposed new programs, the parties submitted a motion to bifurcate the proceedings. The parties submitted a partial settlement agreement at the December 22, 1992 hearing which recommended continued approval of five DSM programs that were initially approved in DR 91-158. The parties also agreed to defer consideration of certain contested issues that were likely to have a bearing on the commission's approval of the proposed new programs. During the course of December 22 hearing, the Companies informed the commission of an error in the calculation of the cost-effectiveness test for the existing Residential Lighting Program (RLP). As a result of that error, the Companies requested that the commission also defer consideration of the RLP until the hearing scheduled for January, 1993.

On January 5, 1993 the commission issued Order No. 20,718 granting temporary approval of the proposed conservation charges¹⁽⁷⁾. With respect to the contested issues, the parties agreed to a filing date for supplemental testimony on January 11, 1993, a technical session on January 13, 1993 and a hearing on the merits on January 18, 1993.

II. POSITIONS OF THE PARTIES

A. Concord Electric Company and Exeter & Hampton Electric Company

On January 11, 1993 Mr. Gantz filed supplemental testimony stating the Companies' position on issues raised by staff in its prefiled testimony of December 1, 1992. Those issues and the Companies' position on each, as supplemented by Mr. Gantz's oral testimony on January 18, 1993, are summarized below:

1. Should the Total Resource Cost Test be used as the basis of DSM cost-effectiveness testing and, if so, should total or incremental customer costs be used?

The Companies agree that the Total Resource Cost Test is an appropriate basis for economic screening of DSM programs. However, they believe that it is inappropriate to include in that test total customer costs without an analysis of the actual measures/programs being offered. The Companies believe that incremental customer costs (as opposed to total customer costs) should be used in the test when the conservation measure/program results in an improvement in efficiency over some standard measure/program. In the Companies' view, failure to use incremental costs in such circumstances could understate the actual cost-effectiveness of conservation measure/program and hence result in lost savings.

2. Should a minimum 1.2:1 benefit/cost ratio be required for all new residential DSM programs, including the two new programs proposed by the Companies?

For the reasons listed below, the Companies oppose staff's recommendation to use a minimum benefit/cost ratio of 1.2:1 for new residential DSM programs:

(a). Use of such a minimum ratio is unnecessary and fails to insure that non cost factors are appropriately balanced with cost factors in the evaluation of DSM options.

(b). Variability in planning assumptions that could cause deviations from expected outcomes can be minimized through the use of sound technical techniques, industry standards and integration with program implementation.

(c). The minimum ratio would adversely prejudice DSM programs as compared to supply-side options, and could cause the Companies to fail to implement certain DSM programs with positive benefits to customers.

(d). There is no sound technical basis for establishing a minimum ratio other than 1.0:1.

(e). Undue reliance on a single, numerical factor fails to reflect the significance of non-cost factors that are included in planning guidelines of the Companies' integrated resource planning process.

3. Should implementation of the redesigned Residential Lighting Program (RLP) proceed as proposed?

RLP is targeted to the hard to reach low income residential sector. For this reason the Companies believe that it should be implemented immediately despite the fact that the benefit/cost ratio is only 0.98:1 if sunk administrative costs are included, and 1.08:1 if those cost are excluded.

4. Should implementation of the two new proposed residential programs, Electric Space Heat (ESH) and Lighting Catalog (LC), proceed as proposed?

The Companies believe that implementation of the two new proposed programs, ESH and LC, should be delayed until January, 1994 for the following reasons:

(a). The Companies would like an opportunity to study the impact of staff's program design and cost effectiveness concerns as well as the variability of other program parameters.

(b). Experience in field monitoring and evaluation (M&E) activities of existing programs needs to be incorporated into ongoing efforts to design M&E plans for ESH and LC. These results will assist in verifying key budget and energy savings assumptions.

(c). Variability in program screening tests can be reduced through the use of actual program budget values and savings assumptions submitted with responses to the Request for Proposals (RFP) for ESH and LC.

Mr. Gantz also testified that it was the Companies' intention to award contracts to individual energy service companies (ESCO) that would involve implementation of the proposed new ESH and LC programs in Massachusetts and New Hampshire at approximately the same time²⁽⁸⁾. The Companies believe that this would allow them to achieve economies of scale thereby keeping program costs to a minimum for all three companies. In addition, the single ESCO approach affords the Companies an opportunity to develop and implement uniform reporting requirements, to maintain program continuity, and to support a single diverse database for improved monitoring and evaluation.

B. Staff's Position

On January 11, 1993, Mr. McCluskey filed on behalf of staff supplemental testimony. With respect to the issue of cost- effectiveness

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testing, staff agrees with the Companies that the Total Resource Cost Test is appropriate and that incremental customer costs should be used whenever a high efficiency measure is installed instead of a standard efficiency measure³⁽⁹⁾. For measures/programs that do not entail improvement over less efficient measures/programs⁴⁽¹⁰⁾, the full customer costs should be used.

Staff recommends that a minimum benefit/cost ratio of 1.2:1 should be applied to *individual* DSM measures as part of the preliminary screening process in new program development and design. Measures that fall below the minimum may be included in a program only if they constitute a lost opportunity or if affiliated measures grouped together pass the minimum as a whole. Given the inherent uncertainties in the primary planning variables and the rate impacts of uneconomic DSM programs, staff believes that responsible planners should err on the side of caution and not include programs with marginal benefit/cost ratios.

Nonetheless, staff supports the Companies' proposal to implement in 1993 the redesigned RLP even though it has a benefit/cost ratio of only 1.08:1 especially given its focus on low income customers. To the extent that ongoing M&E efforts identify ways to improve RLP cost effectiveness and program delivery mechanisms, staff encourages the Companies to analyze these results for possible modification to the 1993 program or inclusion in their 1994 C&LM program filing.

With respect to the proposed new ESH and LC programs, staff opposes the Companies' recommendation that implementation be delayed until January, 1994. The benefit/cost ratio for the ESH exceeds the proposed minimum and therefore implementation should begin July, 1993 as originally proposed in the Companies' October, 1992 filing. With respect to LC, staff contends that through program redesign the cost effectiveness can be improved from its current 1.14:1 ratio to something in excess of the proposed minimum. Such improvements in cost-effectiveness are achievable, according to staff, based on the experiences of Granite State Electric Company, who operates a similar lighting catalogue program with a benefit/cost ratio of 1.65:1.

Finally, staff supports the competitive bid selection process and the use of ESCOs as program contractors. This process has proven effective in providing companies with a substantive basis for making C&LM program design and implementation decisions. However, staff is opposed to the imposition of any time restrictions or delays on the New Hampshire Companies' RFP review, contractor selection process or proposed program implementation schedules due to approvals required in Massachusetts.

C. Intervenors' Position

At the December 22, 1992 hearing on the merits two limited intervenors, Mr. Maurice Lamy of RPL Enterprises and Mr. Walter Erikson of Waste of Energy, Inc., raised several concerns regarding the selection by utilities of Energy Service Companies (ESCO) and the role of utilities in the energy conservation business. Mr. Lamy and Mr. Erikson stated that the existence of

utility sponsored DSM programs and the bidding processes contained therein make it difficult for small ESCOs to effectively compete against the financial and business resources of larger ESCOs who benefit from greater economies of scale and scope. However, to the extent that utilities are required by the commission to solicit bids for DSM service contracts, such bidding, in their opinion, should be limited only to New Hampshire based firms and that in state contractors should receive a premium labor rate. Further, they believe that inadequate maintenance of energy conservation measures installed by utility sponsored ESCOs is resulting in lower energy savings, higher energy bills and thus dissatisfied customers.

III. COMMISSION ANALYSIS

Because our January 5, 1993 order addressed only the Companies' request for approval of their proposed 1993 conservation charges and not the concerns of the intervenors, we will address them in this report. The commission believes that DSM bidding is a fair and effective means of delivering least cost DSM

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measures to NH ratepayers. In addition, a well structured bidding process can provide utilities with a broad spectrum of program options and access to valuable data and information that would not generally be available from local contractors. Further, restricting access to the bid process to state contractors or providing premium labor rates to those contractors is discriminatory and does not serve the best interests of the Companies or their ratepayers. With respect to the claim of inadequate maintenance by ESCOs, the commission believes that this problem can be addressed through the insertion of language in the ESCO contracts requiring periodic inspections and maintenance and by the establishment of an effective post installation monitoring program run by the Companies.

We will now address the unresolved issues heard on January 18, 1993. With respect to the use of the Total Resource Cost (TRC) test for program screening, we note that this test has formed the basis of most NH electric utility DSM filings made since 1989 and was recently approved as the basis for future gas utility DSM filings. We, therefore, believe it is appropriate that the UNITIL Companies also use the TRC test to screen potential new programs. We also agree that in order to realize the full economic potential of DSM, care must be taken in the determination of the customer cost component of the TRC test. As outlined in the testimony of Mr. Gantz, and agreed to by staff, incremental customer costs are appropriate when a higher efficiency measure is installed instead of a lower efficiency measure. Otherwise, the appropriate cost is the full customer cost.

The arguments presented by staff in support of a minimum benefit/cost ratio (i.e. 1.2:1) for residential DSM programs/measures are persuasive. Given the uncertainties relating to many of the variables which determine program value, it is prudent to build into the screening process a small cushion to reduce the risk that marginal programs ultimately prove to be uneconomic. This is consistent with our decisions in Connecticut Valley Electric Company (DR 91-024) and Public Service Company of New Hampshire (DE 92-028) where we approved a minimum benefit/cost ratio of 1.2:1 for new residential programs and 1.5:1 for new commercial and industrial programs. In both cases the commission intended that the threshold benefit/cost ratio to act as a

guideline to identify measures/programs warranting additional analysis before being incorporated in a plan to be submitted with the commission.

We wish to emphasize, however, that the Companies are not precluded from including in a program any measure that fails to achieve the threshold level if that measure represents a lost opportunity or if when bundled together with other measures causes the program to pass the threshold. Further, the commission recognizes that there may be circumstances in which measures that fail to achieve the threshold can be justified on a non-cost criteria basis, e.g., the Residential Lighting Program addressed below.

The Companies' concern that a minimum benefit/cost ratio in excess of 1.0:1 would adversely prejudice DSM programs as compared to supply options is not persuasive. Since the staff recommendation is to redesign, not to withdraw, programs that fail to achieve the threshold level, we disagree with the Companies' argument that the playing field would be tilted in favor of supply-side options. On the contrary, we believe that the guideline will cause program planners to look more carefully at the elements which make up DSM programs and as a result produce greater benefits to ratepayers for the same dollars spent.

Since the redesigned RLP targets low income customers and other hard to reach segments of the residential market, we agree with staff's recommendation to waive the guideline and approve implementation of the program as scheduled. To the extent that monitoring and evaluation of this program may generate information that can be used to further refine and enhance its cost-effectiveness, we encourage the Companies to take the necessary steps to obtain this capability.

The commission does not believe that delaying ESH implementation until January, 1994 is either necessary or in the best long term interests of the Companies' ratepayers. ESH currently exceeds the minimum ratio and the Companies' October 15, 1992 filing indicated that the RFP could be issued, results

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evaluated and a contractor selected prior to proposed implementation in July, 1993. With respect to the Companies' current concern regarding the need for additional time to develop its M&E procedures, we note that this need was not considered sufficiently pressing in October, 1992 to support an implementation date later in 1993 or early 1994. Nor are we aware of any developments since then that would cause us to conclude that the proposed M&E procedures would be ineffective. Therefore, the commission directs the Companies to begin ESH implementation in July, 1993 as initially filed and to continue their M&E developmental efforts.

Similarly, the commission believes that a delay in LC implementation until January, 1994 is unwarranted. The record indicates that higher rebates combined with more aggressive marketing could increase program participation and possibly raise the benefit/cost ratio from its current level of 1.4:1. As recommended by staff, we direct the Companies to review the lighting catalog program of Granite State Electric Company, which has a benefit/cost ratio of 1.65:1, for possible program design options and improvements. Initial program implementation for the redesigned program shall begin in July, 1993 as originally proposed in the Companies' filing.

Lastly, as indicated in the analysis of Mr. Lamy's and Mr. Erikson's concerns, the commission supports the use of a competitive bid process. We are also not opposed in principle

to the selection of a single ESCO to deliver programs in more than one jurisdiction. However, we will not accept delays in the development and implementation of DSM programs in New Hampshire due to timing difficulties in another jurisdiction.

Our order will issue accordingly.

Concurring: February 16, 1993

ORDER

In consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that Concord Electric Company and Exeter & Hampton Electric Company implement as originally proposed the Residential Lighting and the Electric Space Heat Programs; and it is

FURTHER ORDERED, that the Lighting Catalogue Program be redesigned to improve its cost-effectiveness.

By order of the New Hampshire Public Utilities Commission this sixteenth day of February, 1993.

FOOTNOTES

¹ On February 4, 1993 the commission issued Order No. 20,743 to clarify and replace Order No. 20,718.

² The proposed new programs are to be offered in the service territories of Fitchburg Gas & Electric, Concord Electric, and Exeter & Hampton Electric Companies.

³ e.g., the replacement of a incandescent light bulb with a high efficiency compact fluorescent light bulb.

⁴ e.g. the wrapping of hot water pipes.

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NH.PUC*02/22/93*[75006]*78 NH PUC 107*Northern Utilities, Inc.

[Go to End of 75006]

Re Northern Utilities, Inc.

DF 93-024

Order No. 20,768

78 NH PUC 107

New Hampshire Public Utilities Commission

February 22, 1993

Order Authorizing Northern Utilities, Inc. to Enter Into a Revolving Credit Agreement not to Exceed \$20,000,000 Over a Four Year Term.

BY THE COMMISSION:

ORDER

WHEREAS, Northern Utilities, Inc., a public utility organized and existing under the laws of the State of New Hampshire and primarily engaged in the business of distributing natural gas in certain cities and towns in New Hampshire and Maine, filed on February 8, 1993, a petition for authority pursuant to R.S.A. 369:1 and 4 to enter into a Revolving Credit Agreement (the Agreement) which will provide funds in an amount not to exceed \$20,000,000 over a four year term; and

WHEREAS, Northern Utilities, Inc. states that the purpose of the proposed Agreement will be used to repay outstanding short-term debt and to fund future additions, extensions and betterments to its utility plant, property and equipment; and

WHEREAS, Northern Utilities, Inc. states that the Agreement will be with the First National Bank of Boston and will provide up to \$20,000,000 of revolving credit funds for a four-year period; and

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WHEREAS, Northern Utilities, Inc., as of December 31, 1992, had outstanding long-term debt which amounted to \$27,000,000; and

WHEREAS, Northern Utilities, Inc. had outstanding short-term debt as of December 31, 1992 of \$4,500,000; and

WHEREAS, Northern Utilities, Inc., as of December 31, 1992, had 200 authorized shares of Common Stock, \$10 par value, of which 100 shares were issued and outstanding and a common equity balance of \$37,002,789; it is hereby

ORDERED, that Northern Utilities, Inc. is hereby authorized, pursuant to R.S.A. 369:1 and 4 to enter into the Agreement which will provide up to \$20,000,000 in revolving credit funds for a four-year period, the proceeds of which will be used to reduce outstanding short-term debt and to fund future additions, extensions and betterments to its utility plant, property and equipment; and it is

FURTHER ORDERED, that Northern Utilities, Inc., within ten (10) days of the closing, will submit a copy of the Revolving Credit Agreement as well as a statement as to the interest rate on the initial borrowing; and it is

FURTHER ORDERED, that if at any time during the term of the Agreement, Northern Utilities, Inc. reduces the balance outstanding under the Agreement, and any portion of the revolving credit fund shall be considered short-term debt in accordance with generally accepted accounting principles, Northern Utilities, Inc. shall notify the Commission; and it is

FURTHER ORDERED, that Northern Utilities, Inc. is authorized to take all steps and

delivery and execute all documents necessary or desirable to implement and carry out the terms of the Agreement; and it is

FURTHER ORDERED, that on or before January 1st and July 1st of each year, Northern Utilities, Inc. shall file with this Commission a detailed statement, duly sworn to by its Treasurer, showing the disposition of proceeds of the Agreement until the whole of said proceeds have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of February, 1993.

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NH.PUC*02/23/93*[75007]*78 NH PUC 108*Innovative Telecom Corporation

[Go to End of 75007]

Re Innovative Telecom Corporation

DE 92-225

Order No. 20,769

78 NH PUC 108

New Hampshire Public Utilities Commission

February 23, 1993

Order *NISI* Granting Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire, and Granting Waiver of Certain Rules.

BY THE COMMISSION:

ORDER

On December 8, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Innovative Telecommunications Corporation (ITC), a New Hampshire corporation, for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, on February 1, 1992, ITC filed a "substantially revised tariff" and ITC now proposes to "[t]o take responsibility for securing and reselling IXC facilities which will carry traffic associated with this service."; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim

basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

WHEREAS, the Commission finds that ITC demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, ITC filed a timely and proper "Motion for Waiver of Accounting Rules," specifically NH Admin. Rules Puc 406.03 - Accounting Rules, 409 - Uniform System of Accounts (USOA), and 407.02 - 407.13 - Forms Required for All Telephone Utilities; and

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WHEREAS, the Commission has previously found that granting similar waivers of certain rules is in the public interest, and granted a similar waiver to U.S. Sprint in Order No. 19,764, dated March 19, 1990, and to WilTel in Order No. 20,632, dated October 13, 1992; and

WHEREAS, ITC represents that it uses Generally Accepted Accounting Practices (GAAP); and

WHEREAS, the Commission finds that granting ITC the limited waiver of rules is in the public interest; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 23, 1993; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than March 8, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before March 23, 1993; and it is

FURTHER ORDERED, *NISI*, that ITC's Motion for Waiver of Accounting Rules, received by the Commission on February 11, 1993 described above, and limited to the specifically referenced rules, hereby is granted; and it is

FURTHER ORDERED, *NISI*, that ITC hereby is granted interim authority to offer intrastate long distance services in the state of New Hampshire subject to the following conditions:

1. that said services, shall be offered only by filed and approved tariffs, and as subsequently amended, and shall be offered only on an interim basis until completion of the so-called competition docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis;
2. that ITC shall notify each of its customers requesting this service that the service is approved on an interim basis and said service may be required to be withdrawn at the completion of the so called competition docket or continued on the same or different basis;
3. that ITC shall file tariffs for new services and changes in existing services (other than rate

changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;

4. that ITC shall notify the Commission of a change in rates to be charged the public within one day after offering service at a rate other than the rates on file with the Commission;

5. that ITC shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400, except those specifically waived above;

6. that ITC shall be subject to all reporting requirements contained in RSA 374:15-19;

7. that ITC shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission;

8. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

9. that ITC shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, ITC shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis;

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10. that ITC shall report revenues associated with each service on a monthly basis;

11. that ITC shall report the number of customers on a monthly basis;

12. that ITC shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow ITC to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, ITC file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-third day of February, 1993.

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NH.PUC*02/24/93*[75008]*78 NH PUC 110*MCI Telecommunications Corporation

[Go to End of 75008]

Re MCI Telecommunications Corporation

DE 93-027

Order No. 20,770

78 NH PUC 110

New Hampshire Public Utilities Commission

February 24, 1993

Order *Nisi* Approving the Addition of Promotional Offerings Language to MCI NHPUC Tariff No. 1.

BY THE COMMISSION:

ORDER

On February 12, 1993 MCI Telecommunications Corporation (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to add Promotional Offerings language to the Rules and Regulations section of its NHPUC Tariff No. 1 - Intrastate Telecommunications Service. WHEREAS, MCI proposed the filing become effective March 12, 1993; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 23, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, MCI cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than March 8, 1993 and is to be documented by affidavit filed with this office on or before March 23, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of MCI Tariff PUC No. 1 - INTRASTATE TELECOMMUNICATIONS SERVICES are approved:

Page 110

Sixteenth Revised Page 1

Eighth Revised Page 2

First Revised Page 22

and it is

FURTHER ORDERED, that MCI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-fourth day of February, 1993.

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NH.PUC*02/26/93*[75009]*78 NH PUC 111*Granite State Electric Company

[Go to End of 75009]

Re Granite State Electric Company

DR 92,084

Order No. 20,771

78 NH PUC 111

New Hampshire Public Utilities Commission

February 26, 1993

Petition for Permanent Rate Increase; Report Approving Offer of Settlement.

Appearances: David J. Saggau, Esquire on behalf of Granite State Electric Company; James Anderson, Esquire on behalf of the Office of the Consumer Advocate and Eugene F. Sullivan, III, Esquire on behalf of the New Hampshire Public Utilities Commission Staff.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On June 1, 1992, Granite State Electric Company (Granite State or Company) filed a petition with this Commission requesting a permanent rate increase of \$2.73 million, a 4.5 percent increase over current revenue levels, pursuant to RSA 378:28. In addition, the Company proposed a step increase of \$0.86 million effective January 1, 1993, to reflect an accounting change promulgated by the Financial Accounting Standards Board Statement No. 106 (FAS 106) regarding the treatment of post-retirement benefits other than pensions. Further, the Company

petitioned for temporary rates in the amount of \$1.44 million, or 2.3 percent over current levels, pursuant to RSA 378:27.

On June 30, 1992, this Commission issued an order suspending the proposed permanent rate increase and set a pre-hearing conference for July 31, 1992 to address motions to intervene, establish a procedural schedule on the permanent rate request, and to hear the Company's petition for temporary rates. In addition, the Commission consolidated the Company's then-pending Marginal Cost of Service Study proceeding in Docket No. DR 90-013 with the instant proceeding.

On September 14, 1992, the Commission issued Order No. 20,603 establishing a procedural schedule and approving the Company's request for temporary rates in the amount of \$1.44 million.

On December 18, 1992, the Commission established generic Docket No. DA 92-199 to address rate treatment of FAS 106 expenses for all New Hampshire Utilities, and deferred any decision on the Company's requested step increase to waiver its FAS 106 expenses pending the outcome of that proceeding¹⁽¹¹⁾.

During the course of discovery in this proceeding, the Company responded to 115 data requests, and participated in technical sessions and settlement negotiations with the Commission Staff (Staff) and the Office of the Consumer Advocate (OCA). On February 24, 1993, the parties and Staff filed an Offer of Settlement (Settlement) resolving all issues among them in this proceeding. A duly noticed hearing on the settlement was held on February 26, 1993.

After presentation of the settlement, the Commission issued Order No. 20,771 (February 26, 1993) approving the settlement. This report will outline the terms of the settlement and the reason for our approval.

II. POSITIONS OF THE PARTIES AND STAFF

A. Granite State Electric Company

Granite State filed to recover an additional \$2.724 million, or 4.5 percent, in base rate revenues effective July 1, 1992. Excluding Conservation and Load Management and Purchased Power Adjustment Cost changes the overall base rate increase proposed is 4.89 percent. The increase was based upon a cost of common equity of 12.50% and an overall cost of capital of 10.93%. The cost of service was developed using actual data from calendar year 1991, the test year, and adjusted for known and measurable changes in revenues and expenses for the rate year, 1992.

Adjustments included changes to salary and wages, rate case expenses, employee fringe benefits, conservation and load management expenses, purchase power normalization based on the roll-in of purchased power expenses at the W-12(a)(S) level, depreciation expenses, FICA tax expenses, and interest on customer deposits. Revenue adjustments were made to reflect normalized test year revenues under current rates by including the full annualized usage of several new commercial-industrial customers that began operation in 1991. A corresponding adjustment was made to reflect increased purchased power expenses, resulting in a net reduction

in revenue requirement of \$82,000.

Granite State's filing included a number of rate design proposals supported by embedded and marginal cost-of-service studies (COSS). Granite State used the embedded COSS, based upon a 1991 test year, to allocate the proposed revenue requirement among the rate classes. Granite State believes the results of its embedded COSS are fundamentally sound and correct, but proposes to make adjustments, consistent with the embedded COSS, to the rate class allocation because of concerns about rate stability and gradualism.

B. Staff and OCA

The positions of Staff and the OCA are summarized in the Settlement, which is appended in part as Attachment A.

III. OFFER OF SETTLEMENT

The Settlement²⁽¹²⁾ specifies that Granite State, Staff and the OCA agree that the Company is allowed a permanent rate increase of \$1.965 million, 3.23 percent, effective March 1, 1993. The Settlement bases the revenue requirement, \$53,266,610 exclusive of fuel, oil and purchased power cost adjustments and conservation and load management, on a rate base of \$34,165,000 and an overall cost of capital of 9.71 percent. Page 1 of 9 of Attachment 1 to the Offer of Settlement. The difference between the temporary rate level and the permanent rate level will be recovered through a temporary rate surcharge of \$0.00046 per kWh during a ten-month period beginning with the March 1, 1993 effective date of the Settlement. The Settlement also provides that Granite State will be allowed to recover effective January 1, 1993, any increased expenses associated with post-retirement benefits other than pensions (PBOP) in accordance with the Commission's generic docket, DA 92-199, investigating utility recovery of PBOP expenses.

IV. COMMISSION ANALYSIS

The Commission has reviewed the record in this proceeding and accepts the Offer of Settlement presented to us. We find that the overall base rate increase of \$1.965 million, based on the settlement overall cost of capital of 9.71 percent, should enable the Company to earn sufficiently to yield a reasonable return on its used and useful assets in accordance with RSA 378:27. While we recognize the Offer of Settlement does not specify the return on equity in the overall cost of capital, we believe the Settlement's overall rate of return coupled with the record on the cost of debt and capital structure provides us with the needed information on which to base this decision.

An order consistent with this report has previously been issued.

Concurring: March 15, 1994

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ORDER

Based upon our review of the record in this docket which is described in the forthcoming Report; it is hereby

ORDERED, that the Offer of Settlement appended hereto as Attachment A is approved in its entirety effective March 1, 1993; and it is

FURTHER ORDERED, that Granite State Electric Company file a compliance tariff within 15 days from the issuance date of this Order.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of February, 1993.

FOOTNOTES

¹ On July 1, 1993, the Commission issued Order No. 20,888 in docket DA 92-199 authorizing Granite State to increase rates by \$771,000, or 1.23 percent, for the implementation of FAS 106 Post Retirement Benefits Other than Pensions.

² The Offer of Settlement encompasses 128 pages and includes a description of the Settlement and seven Attachments. Due to the length of the document, only the narrative and Attachment 1, which contains exhibits describing the determination of the revenue requirements, will be appended to the Order as Attachment A. The other six Attachments cover revenue requirements, rate settlement surcharge determination, cost allocation, rate design, typical bill analysis, reconciled purchased power cost adjustment and a tariff based on the Offer of Settlement.

[THE FOLLOWING TEXT WAS NOT PUBLISHED IN NEW HAMPSHIRE VOLUME 78.]

ATTACHMENT A

OFFER OF SETTLEMENT

I. Introduction

This Offer of Settlement is jointly submitted by the New Hampshire Public Utilities Commission Staff ("Staff"), the Office of the Consumer Advocate ("OCA") and Granite State Electric Company ("Granite State Electric" or "Company") together the "Parties," and resolves all issues among the Parties in this proceeding. A summary of the procedural history, the Company's original proposal, Staff's and the OCA's position, and the terms of the Settlement are contained herein. The Parties request that the Commission adopt this Settlement by March 1, 1993 as final resolution of this proceeding.

II. Procedural History

On June 1, 1992, Granite State Electric filed testimony and exhibits requesting a permanent revenue increase of approximately \$2.73 million, or 4.5 percent. In addition, the Company proposed a step increase of \$.86 million¹⁽¹³⁾ effective January 1, 1993, to reflect the accounting change promulgated by the Financial Accounting Standards Board Statement No. 106 ("FAS 106") regarding the treatment of post-retirement benefits other than pensions. Further, the Company submitted a petition for temporary rates in the amount of \$1.44 million, or 2.3 percent over the current levels pursuant to NH RSA 378:27.

In support of its requested permanent rate increase, the Company stated that its current return on common equity was approximately 6 percent. The Company's cost of service witness

supported the Company's proposed revenue requirement for the rate year based upon actual results for the test period in this case, the 12-month period ended December 31, 1991. The Company's cost of capital witness supported a return on common equity of 12.5 percent. The Company stated that rate relief is needed due to significant investments in distribution plant, and to offset increases in operating and maintenance expenses which the Company has incurred since its last base rate increase in June 1990.

On June 30, 1992, the Commission issued an order suspending the proposed permanent rate increase and set a pre-hearing conference for July 31, 1992 to address motions to intervene, establish a procedural schedule on the permanent rate request, and to hear the Company's petition for temporary rates. On September 14, 1992, the Commission issued Order No. 20,603 establishing a procedural schedule and approving the Company's requested temporary rate increase of \$1.44 million, effective for usage on or after September 15, 1992.

On December 18, 1992, the Commission established generic Docket No. DA 92-199 to address rate treatment of FAS 106 expenses for all New Hampshire utilities.

No party other than the Parties to this Settlement has intervened in this proceeding.

III. Position of the Parties

Pursuant to the procedural schedule established in this Docket, both Staff and the OCA submitted testimony addressing the Company's request. Staff filed testimony supporting a permanent rate increase of \$1.6 million. Staff's recommendation included a return on common equity of 10.13 percent, or 237 basis points below the 12.5 percent return supported by the Company. Staff also expressed concern that the Company's proposed methodology for the allocation of costs to each rate class did not reflect marginal costs. With respect to the Company's proposed rate design, Staff suggested that the Company increase its residential customer charges and its demand charges for the G-1 and G-2 rate (large and medium-sized commercial and industrial customers) to better reflect marginal costs. In addition, Staff stated that there is no justification for the lower initial block energy rate for residential customers' usage up to 250 kilowatthours. Further, because a generic docket will soon address line extension charges of all electric utilities, Staff suggested deferral of the Company's proposed increase for line extensions at this time. Finally, Staff raised concerns with the benchmark rate the Company proposes to use as the basis for determining the proper level of purchased power costs to use to reconcile costs to revenues in future PPCA filings.

The OCA submitted testimony supporting a return on common equity of 10 percent. In addition, the OCA, while stating several concerns with the filed cost allocation methodology, recommended that no individual rate class should be allocated more than 125 percent of the average base rate percentage increase, nor less than 75 percent of the average base rate percentage increase. The OCA also made the connection with the C&LM portion of customer bills by recommending that these costs be allocated by class.

IV. Settlement

During the course of discovery in this proceeding, the Company has responded to 115 data requests, and has participated in technical sessions and settlement negotiations with the Parties. As a result of these settlement negotiations, the Parties have reached a comprehensive settlement of all issues in this proceeding. Specifically, the Parties agree as follows:

(1) The Parties agree that the Company shall be allowed a permanent rate increase of \$1.965 million, effective for usage on and after March 1, 1993.

(2) The Parties expressly agree that any cost of service adjustments and the return on equity resulting from this settlement shall be unspecified. Staff's cost of service calculations used to reach this Settlement are shown in Attachment 1.

(3) As allowed by NH RSA 378:29, Granite State Electric shall recover the difference between the temporary rate level and permanent rate level for usage during the period September 15, 1992 through February 28, 1993. This amount will be collected in a surcharge to be collected over a 10-month period beginning March 1, 1993 and ending December 31, 1993. The Company shall reconcile the revenues collected through the surcharge against the actual undercollection for usage from September 15, 1992 to February 28, 1993. A report detailing the reconciliation shall be filed with the Commission on or about February 15, 1994. The Company shall provide a monthly report detailing the actual recovery of the recoupment. The surcharge for the last month shall be adjusted to result in as accurate a recovery as possible. Any residual amounts after the surcharge period shall be applied to the Company's C&LM fund balance. The calculation of the rate settlement surcharge is shown in Attachment 2. When actual data is available, the Company shall submit an accounting of the recoupment amount.

(4) The Company's revenue requirement shall be allocated to each rate class as shown in Attachment 3.

(5) The Company's proposed rate design shall be modified as shown in Attachment 4. The typical bill calculations from the rate design are shown in Attachment 5.

(6) Granite State Electric shall be allowed to recover any increased expenses associated with post retirement benefits other than pensions (PBOP) effective January 1, 1993 in a manner consistent with the outcome of the currently pending generic Docket No. DA 92-199. The rate treatment of Granite State Electric's PBOP expenses which are incurred but not recovered between January 1, 1993 and the conclusion of the generic proceeding will be specifically addressed by the Commission in its order in Docket No. DA 92-199.

(7) This Settlement does not restrict the Company's ability to reflect in rates any future changes in Federal or state taxes on its own Petition or in a proceeding initiated in accordance with the Commission's established practice of addressing such changes in tax laws generically. The Parties have used the current 34% Federal corporate income tax and the 8% New Hampshire Business Profits Tax in this Settlement.

(8) Granite State Electric's charge for line extensions shall not be increased at this time. Granite State Electric reserves its right to change its line extension charge in the anticipated generic proceeding to be opened by the Commission addressing this issue. All other proposed changes to the Company's Terms and Conditions for service shall be approved.

(9) Effective for usage on or after March 1, 1993, Granite State Electric shall reconcile its monthly purchased power bill from New England Power Company (less fuel and Oil Conservation Adjustment Expenses) with revenues related to such purchased power expense calculated from factors determined in Attachment 6.

(10) Granite State Electric agrees to cooperate with Staff and the OCA in a study to assess

the effects of eliminating the lower initial block energy rate in Rate D-00, and implementing a targeted low income discount rate instead.

(11) Tariff pages reflecting the terms of this Settlement are shown in Attachment 7.

V. Miscellaneous Provisions

(1) Other than as expressly stated herein, this Settlement establishes no principles and shall not be deemed to foreclose any Party from making any contention in any future proceeding or investigation.

(2) Other than as expressly stated herein, the approval of this Settlement by the Commission shall not in any respect constitute a determination as to the merits of any issue in any other proceeding.

(3) This Settlement is the product of settlement negotiations. All offers of settlement shall be without prejudice to the position of any Party presenting such offer.

(4) This Settlement is submitted on the condition that it be approved in full by the Commission, and on further condition that if the Commission does not approve this Settlement in its entirety, this Settlement shall be deemed withdrawn and shall not constitute a part of the record in this or any other proceeding or be used for any purpose.

VI. Conclusion

The Parties respectfully request the Commission to adopt this Settlement as a final resolution of all issues in this proceeding.

Dated this _ day of February, 1993.

Respectfully submitted,

NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION STAFF

Eugene F. Sullivan, Esquire

OFFICE OF THE CONSUMER ADVOCATE

Michael W. Holmes, Esquire

GRANITE STATE ELECTRIC COMPANY

David J. Saggau, Esquire

FOOTNOTES

¹ This request was subsequently revised to \$.76 million.

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NH.PUC*03/01/93*[75010]*— NH PUC —*New Hampshire Electric Cooperative, Inc.

[Go to End of 75010]

Re New Hampshire Electric Cooperative, Inc.

DR 92-244
Order No. 20-772

— NH PUC —

New Hampshire Public Utilities Commission

March 1, 1993

Report and Order Addressing Intervention and Procedural Schedule.

[THE FOLLOWING CASE WAS NOT PUBLISHED IN NEW HAMPSHIRE VOLUME 78.]

Appearances: Broderick and Dean by Mark W. Dean, Esq. for New Hampshire Electric Cooperative, Inc.; Devine, Millimet and Branch by Frederick J. Coolbroth, Esq. for Plymouth State College; Paul R. McCary, Esq. for Plymouth Cogeneration Limited Partnership; Kenneth Traum on behalf of the Office of the Consumer Advocate for residential ratepayers; Thomas Frantz on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

I. PROCEDURAL HISTORY

On December 31, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed a Petition to Implement Standby and Supplemental Service Rates with the New Hampshire Public Utilities Commission (Commission). On January 26, 1993, the Commission issued an Order of Notice scheduling a prehearing conference for February 11, 1993.

The February 11, 1993 hearing was attended by Mark W. Dean, Esq. for NHEC; Frederick J. Coolbroth, Esq. for Plymouth State College; Paul R. McCary for Plymouth Cogeneration Limited Partnership (PCLP), Kenneth Traum for the Office of the Consumer Advocate (OCA), and the Staff. Motions to intervene by Mr. Coolbroth and Mr. McCary were received and will be granted as follows: Plymouth State College with status as a limited intervenor for purposes of observation and information; and PCLP with status as a full intervenor, with leave for Mr. McCary to appear pro haec vice on behalf of PCLP. NHEC, PCLP, Plymouth State College, the OCA, and Staff stipulated to the following procedural schedule, agreeing that data requests and dates responses shall be due in hand on the dates listed and that delivery by facsimile is acceptable.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Staff/Intervenor data requests to NHEC on a rolling basis until	February 26, 1993
NHEC data responses	March 5, 1993 - March 19, 1993
Technical Session I	March 25, 1993 10:00 a.m.
Staff/Intervenor 2d set data requests to NHEC	April 1, 1993
NHEC data responses	April 15, 1993
Intervenor Testimony	May 7, 1993

NHEC data requests to Intervenors	May 21, 1993
Intervenors data responses	June 4, 1993
Settlement Conference	June 10, 1993 10:00 a.m.
Staff/OCA Testimony	June 24, 1993
NHEC/Intervenors Rebuttal Testimony	July 6, 1993
Settlement Conference	July 13, 1993 10:00 a.m.
Hearing on merits	July 14, 15, 1993 10:00 a.m.

II. COMMISSION ANALYSIS

The Commission finds the foregoing schedule to be in the public good. We also find it appropriate to grant PCLP full intervenor status and Plymouth State College limited intervenor status. Finally, we grant Mr. McCary leave to appear pro hac vice and encourage Mr. McVay of PCLP to appear on his own, without counsel, when he so chooses.

Our order will issue accordingly.

Concurring: March 1, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the procedural schedule stipulated to between the parties and the Staff and set forth in the foregoing Report is adopted for the duration of this matter; and it is

FURTHER ORDERED, that PCLP is granted full intervenor status, that Plymouth State College is granted limited intervenor status, and Paul R. McCary, Esq. is granted leave to appear pro hac vice.

By order of the New Hampshire Public Utilities Commission this first day of March, 1993.

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NH.PUC*03/01/93*[75011]*78 NH PUC 113*New Hampshire Electric Cooperative, Inc.

[Go to End of 75011]

Re New Hampshire Electric Cooperative, Inc.

DR 93-021

Order No. 20,773

78 NH PUC 113

New Hampshire Public Utilities Commission

March 1, 1993

Order *Nisi* Approving the New Hampshire Electric Cooperative's Short-term Avoided Costs.

 BY THE COMMISSION:

ORDER

On February 4, 1993, the New Hampshire Electric Cooperative, Inc. (NHEC) filed to adopt the short-term avoided cost estimates of its primary wholesale supplier, Public Service Company of New Hampshire (PSNH), for the period December 1, 1992 to May 31, 1993 as approved by the Commission in Order No. 20,691 in DR 92-050 and DR 91-165; and

WHEREAS, NHEC's adoption of PSNH's short-term avoided costs is in accordance with the terms of the Settlement Agreement in Docket No. DR 86-41, *et al.*, which provides for NHEC to adopt the avoided costs of its wholesale supplier, and Order No. 19,555 in Docket No. DE 89-079; and

WHEREAS, NHEC purchases most of its power from PSNH under a long-term power contract which was approved in DR 92-009, Order No. 20,618; it is hereby

ORDERED *NISI*, that the short-term avoided cost rates approved for PSNH in Order No. 20,691 be applicable to NHEC under the same terms and conditions holding for PSNH for effect December 1, 1992 unless otherwise ordered or unless there is a request for a hearing as provided below; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than March 12, 1993 and it is to be documented by affidavit filed with this office on or before March 29, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than March 29, 1993; and it is

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FURTHER ORDERED, that NHEC file compliance tariff pages within 20 days of the issuance of this Order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective thirty days from the date of this order, unless the commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this first day of March, 1993.

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NH.PUC*03/01/93*[75012]*78 NH PUC 114*Hampstead Area Water Company

[Go to End of 75012]

Re Hampstead Area Water Company

DE 92-129
Order No. 20,774
78 NH PUC 114

New Hampshire Public Utilities Commission

March 1, 1993

Order *NISI* Approving Requested Franchise Extension.

BY THE COMMISSION:

ORDER

On June 24, 1992, Hampstead Area Water Company (Hampstead or Company) filed a petition to provide water service in a limited area of the Town of Plaistow, New Hampshire to a subdivision known as Rainbow Ridge pursuant to RSA 374:22 and 26; and

WHEREAS, the commission issued an Order of Notice dated July 10, 1992, scheduling a prehearing conference for July 27, 1992; and

WHEREAS, the Company was the only interested party in attendance; and

WHEREAS, the Company has supplied documentation from the New Hampshire Department of Environmental Services, Water Resources Division and Water Supply and Pollution Control Division indicating that the Company has complied with all of the requirements of those Divisions pursuant to RSA 374:22, III; and

WHEREAS, the Company has notified the Town of Plaistow of its request to franchise the subdivision known as Rainbow Ridge and the Town of Plaistow has voiced no opposition to this request; and

WHEREAS, the Commission finds, after investigation, that the proposed franchise is in the public good; and

WHEREAS, present and prospective customers as well as affected parties should be given an opportunity to respond to this petition; it is hereby

ORDERED *NISI*, that Hampstead Area Water Company is granted a franchise to own, operate and manage a public water utility located in a limited area in the Town of Plaistow known as Rainbow Ridge, a subdivision described as follows:

Beginning at the town bound common to Hampstead, Plaistow and Kingston.

Thence: Northeasterly approximately 2500 feet along the Kingston/Plaistow town line to a town bound,

Thence: Southeasterly approximately 3450 feet along the Kingston/Plaistow town line to a point,

Thence: Turning an angle of 90 degrees and running southwesterly approximately 4600 to a point,

Thence: Northwesterly approximately 4100 feet to a Hampstead/Plaistow town bound,

Thence: Northeasterly along the Hampstead/Plaistow town line, and the existing Hampstead Area Water Company's franchise line, approximately 1400 feet to the point of beginning. This area encompassing the northernmost portion of Plaistow and containing approximately 370 acres of land.

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than March 29, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be documented no later than March 12, 1993, and is to be documented by affidavit filed with this office on or before March 29, 1993; and it is

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FURTHER ORDERED, that the Company provide personal notice of this decision to all known or prospective customers by first class mail on or before March 12, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of publication, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this first day of March, 1993.

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NH.PUC*03/01/93*[75013]*78 NH PUC 115*Conway Village Fire District

[Go to End of 75013]

Re Conway Village Fire District

DE 91-049

Order No. 20,775

78 NH PUC 115

New Hampshire Public Utilities Commission

March 1, 1993

Order *Nisi* Removing Customers on the Passaconway Line from Receiving Service from the CVFD and Removing the CVFD from the Jurisdiction of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

ORDER

The Conway Village Fire District (District) having informed the New Hampshire Public Utilities Commission (commission) by letter dated April 4, 1992, that it was providing water service to seventeen (17) customers located outside the District boundaries; and

WHEREAS, the above cited information from the District was filed in response to a written inquiry by the commission staff dated March 21, 1991, which in turn was prompted by a consumer complaint; and

WHEREAS, said consumer complaint alleges that the District is providing inadequate water service and is charging rates four (4) times greater than those charged customers inside the District, thereby subjecting the District to the jurisdiction of the commission pursuant to RSA 362:2 and RSA 362:4; and

WHEREAS, a review of commission records indicates that the District has not been authorized pursuant to RSA 374:22 and RSA 378 to furnish water service to customers outside its municipal boundaries and to charge therefore; and

WHEREAS, pursuant to N.H. RSA 362:4, a municipal corporation furnishing water service shall be considered a public utility if it serves customers outside its municipal boundaries and charges such customers a rate higher than that charged to its customers within the municipality or serves those customers a quantity and quality of water less than that served customers within the municipality; and

WHEREAS, a duly noticed hearing was held on May 29, 1991, which hearing was attended by Peter Hastings, Esq. on behalf of the District, customers of the District and commission staff representatives; and

WHEREAS, the parties agreed that the quality and quantity of water received by the customers on the Passaconway line were not acceptable; and

WHEREAS, at the May 29, 1991 hearing, a settlement agreement was proposed which entailed the District 1) continuing to serve the customers along the Passaconway line with public water from the District's sources and not charging the Passaconway users at that time; 2) attempting to obtain approval from its voters to spend money for purposes of installing private wells for the Passaconway water users; 3) investigating the cost and appropriateness of installing drilled wells which once constructed and hooked up to the Passaconway's water user's residence, would absolve the District from further responsibility to such water user, the cost of all construction to be borne by the District; 4) to the extent possible, encouraging water users entitled to federal grant programs to apply for such grants to offset in part the cost of installing wells for such persons; 5) in at least one instance, exploring and obtaining agreements for installation of a common well for the benefit of two or three houses which, by proximity and lot location, could share a well. The District would also supply appropriate legal documentation so that the ownership of the well would be equal between or among the users, together with responsibilities for repair and maintenance; 6) in at least one instance, where two buildings are on one lot of record, providing only one well to the owners with

hook ups to each of the buildings from the single well; 7) terminating the Passaconway line at Swift River at the completion of the construction project for the appropriate wells, thereby terminating the District's franchise obligation regarding the Passaconway Line pursuant to RSA 374:22; and 8) obtaining the assistance of the commission staff in exploring ways of eliminating its status as a water utility under RSA Chapter 362, particularly RSA 362:4; and

WHEREAS, the settlement agreement iterated above was agreed upon by all the parties present at the hearing; and

WHEREAS, through a petition dated February 5, 1992 filed with this commission by counsel for the District, it has been represented 1) that individual wells have been installed and connected to each residence in a satisfactory manner, with the guarantees of the well installer and the District (to the extent possible) as to each of these wells, to remain in full force and effect for a period of up to one year from the date said wells were hooked up, which guarantees expired on January 16, 1993; 2) that the District terminated water in the Passaconway water line at the Swift River with the intent to abandon the line from said point as it flows under the Swift River and westerly into the Town of Albany; and 3) that the number of out of District water users who are not otherwise residents or taxpayers of the District are fewer than ten after the removal of the sixteen customers as District users from the Passaconway water line; and

WHEREAS, the construction, installation and hook-up of the individual wells and water lines to the respective sixteen customers formerly served by the Passaconway water line of the District was completed on January 16, 1992, being the date of actual hook-up and use by the users thereof; and

WHEREAS, on February 5, 1993, the District notified commission Staff Engineer Doug Brogan and made the representation that all required testing of the wells installed for the Passaconway customers was completed with satisfactory results; it is hereby

ORDERED *NISI*, that:

1) the sixteen former users on the Passaconway water line in the Town of Albany be deemed removed from right of service by the District so that the District has no further responsibility to furnish water thereto;

2) the Passaconway water line as leading westerly across Swift River into the Town of Albany be discontinued and abandoned by the District with no further obligation to repair or maintain the same; and

3) the District is found to serve its water to fewer than ten customers outside the limits of the District and is providing said customers the same quantity and quality of water at the same rates charged within the District. Therefore, pursuant to the provisions of RSA 362:4 I, the District is exempt from further reporting or responsibility to this commission at this time under existing facts and law; and it is

FURTHER ORDERED, pursuant to N.H. Admin. Rules Puc 203.01, that the District notify all persons desiring to be heard to file comments or exceptions by:

1) causing an attested copy of this order to be published once in a newspaper having general circulation in that portion of the State in which operations are conducted, on or

before March 12, 1993;

2) pursuant to RSA 541-a:22, providing a copy of this order to the town clerk, by first class U.S. Mail, postmarked on or before March 12, 1993;

3) providing a copy of this order to each current District customer *and* each former customer on the Passaconway line who had an individual or shared well installed on his/her property, by

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first class U.S. Mail, postmarked on or before March 12, 1993; and

4) documenting compliance with these notice provisions by filing affidavit(s) with the commission on or before March 29, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than March 29, 1993; and it is

FURTHER ORDERED, that this Order be effective on March 30, 1993 unless the commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this first day of March, 1993.

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NH.PUC*03/01/93*[75014]*78 NH PUC 117*EnergyNorth Natural Gas, Inc.

[Go to End of 75014]

Re EnergyNorth Natural Gas, Inc.

DR 91-212

Order No. 20,776

78 NH PUC 117

New Hampshire Public Utilities Commission

March 1, 1993

Report Addressing Petition to Increase Rates.

Appearances: McLane, Graf, Raulerson and Middleton by Steven V. Camerino, Esq. on behalf of EnergyNorth Natural Gas, Inc.; Office of Consumer Advocate by Michael W. Holmes, Esq. on behalf of residential ratepayers; and Eugene F. Sullivan, III, Esq. on behalf of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On January 31, 1992, EnergyNorth Natural Gas, Inc. (ENGI or the Company) filed a request with the New Hampshire Public Utilities Commission (Commission) to increase base rates by \$2,234,813 or 3.2%, pursuant to RSA chapter 378. On February 22, 1992, the Commission issued Order No. 20,402, dated February 27, 1992, suspending the proposed rate increase for investigation pursuant to RSA 378:6. On March 3, 1992, the Company filed a request for temporary rates pursuant to RSA 378:27. On March 19, 1992, the Commission issued an Order of Notice scheduling a hearing on the Company's request for temporary rates and to establish a procedural schedule to govern the Commission's investigation into the Company's requested increase in rates.

On May 13, 1992, the Commission issued Report and Order No. 20,480 denying the Company's request for temporary rates and establishing a procedural schedule. On November 1, 1992, the company placed the requested rate increase into effect, under bond, pursuant to RSA 378:6.

After eight months of investigation, and the filing of testimony by the Parties and the Commission Staff (Staff) the Commission held nine days of public hearings on October 23, 26, 27, 28 and 29, 1992, and December 7, 8, 9 and 21, 1992.

II. POSITIONS OF THE PARTIES AND STAFF.

The Company's, Staff's, and the Office of Consumer Advocate's (OCA) prefiled testimony brought into issue a number of disagreements over the methodologies for establishing the Company's appropriate revenue requirement. Those issues included: test year methodology, pro forma revenues and costs (280 day service, telephone expenses, Hadco, Londonderry/Derry Line, PUC assessment), affiliate contracts, a consultant contract, attrition allowances ("step adjustments"), capitalization of sales staff salaries, legal fees, vehicle related expenses, luncheon expenses, the booking of certain costs expended in previous years in an attempt to encourage former customers to reactivate service and the cost of capital.

A. ENGI.

The Company requested that the Commission adopt a modified methodology for computing a gas utility's revenue requirement that included capital additions outside of the twelve month test year and annualized all known and

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measurable changes in expenses in the twelve months following the test year (rate year) as a means of accurately measuring a gas utility's revenue requirement into the future. In support of this position, the Company pointed out that the current methodology historically applied by the Commission and applied by Staff in this case resulted in the Company's filing of three rate cases in four years in order to sustain sufficient earnings. The Company also suggested the use of an attrition allowance, such as a "step adjustment", for the same reason.

In its initial filing and its testimony the Company did not include pro forma revenues for customers that had converted from interruptible service to a new type of service known as "280 day" service. The Company supported its position by pointing out that under the traditional test year methodology applied by the Commission and put forward by Staff in this case, it would be

inappropriate and inconsistent to pro form its revenues outside the twelve month test year.

Following the same reasoning, the Company also did not make a pro forma adjustment to revenues for its Londonderry/Derry line or Hadco.

In its brief, the Company changed its adjustment to the PUC assessment to include the total assessment for the State's 1993 fiscal year (July 1, 1992 through June 30, 1993); i.e., \$208,599. However, the Company's witness previously testified that the assessment expense should be \$196,033 and should be based on accrual accounting.

The Company objected to a revenue adjustment made by Staff that allocated a higher proportion of joint and common affiliate costs to ENGI from its parent company, EnergyNorth, Inc. (ENI). The Company supported its allocation of joint and common costs between itself and its unregulated affiliates based on its experience, annual time surveys and a contract on file with the Commission, which the Company contends allows it to allocate costs between itself and its affiliates in the manner it sees fit if all of the affiliates agree that a modification to a set formula is justified.

The Company also objected to a Staff modification to a consultant contract with the Company's recently retired Chief Executive Officer. The Company justified the expenditure as appropriate to provide for a smooth transition, and to take advantage of the former CEO's significant expertise in the gas industry.

The Company also took issue with a number of expense adjustments to the Company's filing recommended by Staff including sales staff salaries, legal expenses, vehicle expenses and luncheon expenses.

In regard to sales staff salaries, the Company argued that they should be capitalized to reflect the fact that the salesman is not only in charge of obtaining new accounts, but also responsible for the general oversight of the provision of gas to the new customer.

In regard to legal expenses, the Company argued that it should be allowed an expense allowance over and above the salary of its general counsel to reflect certain proceedings such as rulemakings which required the Company to retain outside counsel.

In regard to vehicle expenses, the Company objected to Staff's removal of the cost of providing automobiles to its executive officers and "grossing up" their salaries to reflect the tax consequences of the personal use of a company vehicle. The Company contends that it is part of the overall compensation package it offers to attract and retain qualified management personnel.

In regard to luncheon expenses, the Company explained that although the luncheons were held at the Manchester Country Club the meals were only \$7.00 per person, and the country club provided the Company with a private room giving Company executives time together each week, away from their daily duties, to discuss larger issues.

Another issue raised by Staff was the Company's failure to properly book costs (as agreed in a previous rate proceeding) incurred in attempting to reactivate services. The Company explained that this was an oversight on its part, and that all expenses incurred for this purpose in the future would be booked appropriately.

Finally, the Company contended that it was entitled to a return on equity of 13%. The

Company based its position on the testimony of its expert witness that the "zone of reasonableness" for the Company is between 12% and 13.25%, and that the "particular" risk of this

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Company justified a return on equity at the high end of this zone or its requested rate of return on equity of 13%. The Company also contended that exclusive reliance on the DCF method is inappropriate, and relied on several alternative methods in calculating the "zone of reasonableness".

B. Staff.

The Staff took the position that there was no need, or justification, to modify the traditional test year methodology in this case or for this particular industry to include "out of time" investments and expenses. Staff came to this conclusion based on the fact that the current methodology properly matches revenues and expenses; whereas, the modifications suggested by the Company would skew the matching formula resulting in unjust rates to consumers. The Staff also objected to the institution of attrition allowances for the same reasons put forth above; because attrition allowances would remove any incentive on the part of the Company to reduce costs in periods of economic downturn, and because the Company was unwilling to accept automatic rate reductions if its returns ever exceeded the established cost of equity.

However, Staff recommended that pro forma adjustments be made to the Company's revenues, outside of the twelve month parameter established in the traditional test year methodology, to reflect certain extraordinary events. Specifically, Staff recommended that a pro forma adjustment be made to include revenues the Company derived outside the test year from 280 day service, Hadco and new customers on the Londonderry/Derry Line. Staff contended revenues from certain customers that had converted from interruptible service to a new service offering, 280 day service, outside the test year should be included in the Company's revenues because the revenues from interruptible service are passed through to customers in biannual cost of gas adjustments while the revenues from 280 day service are retained by the Company and applied to its bottom line, and the total capital cost to serve these customers was in place during the entire test year. Staff contended that additional revenues obtained from a significant customer, Hadco, which was not fully on line in the test year should be included in revenues to balance the fact that the major portion of the capital investment required to serve Hadco was put in place during the test year. Finally, Staff argued that revenues outside the test year from customers being served off the Londonderry/Derry line should be included in the Company's revenue calculation because the line, although greatly underutilized, was fully included in ratebase.

Staff took the position that during the period from July 1, 1992, through September 30, 1992, the Company was not required to pay any assessment because the previous fiscal year had resulted in an overcollection, which is reconciled in the first quarter of the next fiscal year. Staff's adjustment would result in a decrease of \$5,698 to the annual assessment to \$170,860. Staff contended that the Company had inflated the amount of the actual PUC assessment assessed to the Company in the test year, and, therefore, recommended a reduction in this

expense item.

Staff recommended that the allocable joint and common costs assessed to ENGI from its parent, ENI, should be 90%, based on the allocation formula set forth in an affiliates agreement filed with the Commission. Staff further objected to ENGI's interpretation of this agreement in a manner that allowed the affiliates to modify the allocation formula without Commission review, as required under RSA 366:3, Filing of Contracts.

Staff objected to a \$60,000 consulting contract with the Company's former CEO as an unnecessary expense, (due to the fact that the Company employed competent gas procurement personnel).

Staff objected to the capitalization of salesmen's salaries related to serving new customers because the activities of the salesmen relative to the installation of new assets to serve these customers was far too attenuated to justify capitalizing their salaries under the Commission's Chart of Accounts for Gas Utilities.

Staff also objected to a number of expense items included by the Company in the calculation of its revenue deficiency. These items included weekly luncheons for management

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personnel at the Manchester Country Club, the provision of automobiles to executive officers and the subsequent "grossing up" of their salaries to compensate them for the tax consequences of the personal use of a Company vehicle, and the cost of retaining outside counsel to represent the Company at a rulemaking hearing because the Company included the salary of its General Counsel in its expenses, and the rulemaking proceeding was a "non-recurring" expense.

Finally, the Staff recommended a return on equity of 10.39% based on the traditional Discounted Cash Flow (DCF) methodology employed by the Commission. This was supported by the use of a risk premium method as a "sanity check", and a review of current capital market conditions.

C. OCA

The OCA generally supported the position of the Staff, but proffered its own testimony on the issue of cost of capital. The OCA supported a return on equity of 10.2% also based on the DCF methodology with minor variations from Staff to certain inputs into the model.

III. COMMISSION ANALYSIS.

The issue before the Commission is the establishment of just and reasonable rates for the Company. RSA 378:28. The disputed elements of that issue are sufficiently set forth above. As is generally the case, the Company bears the burden of establishing each of the elements of its requested revenues. RSA 378:8. We will address each of the disputed elements seriatim.

In computing the Company's required revenues we will apply our traditional historical "test year" methodology. That is, we will establish the Company's revenue requirement through an examination of a thirteen point average of the Company's rate base during the twelve month test year with pro rata modifications to operation and maintenance expenses for "known and measurable" changes in the twelve months following the test year. While we acknowledge that

this methodology is neither statutorily nor constitutionally required (*Cf.*, RSA 378:30-a), and that no methodology for setting rates into the future is perfect, we have found that this methodology has resulted in just and reasonable rates to both utilities and their customers absent extraordinary circumstances. In this particular case we find no such extraordinary circumstances to justify a modification to our traditional methodology.

An attrition allowance, as requested by the Company, is one means by which the Commission deals with extraordinary circumstances to justify a modification to the traditional test year methodology applied by this Commission. For example, in the last rate proceeding involving Northern Utilities, Inc., New Hampshire's only other natural gas local distribution company (LDC), the Commission granted it an annual step adjustment, a type of attrition allowance, to address a multi-million dollar safety program to replace, over the course of the next two to ten years, bare steel distribution mains that are at risk of corrosion failure. The magnitude of these known expenses relative to the book value of the assets of Northern established the extraordinary event justifying a modification to standard test year ratemaking. There is no such "emergency" in this case justifying an attrition allowance. Furthermore, an automatic attrition allowance, absent extraordinary circumstances, would serve as a disincentive to utilities to cut costs or streamline operations prior to seeking rate relief.

Following this reasoning we should not, and will not, make any modifications to the Company's test year revenues for the Londonderry/Derry Line or Hadco.

We have not adopted staff's position relative to annualizing related to the Londonderry/Derry Line, Hadco, or the new 280 day customers. Our reasoning is consistent with our decision to use the matching principles for rate base and the adjustment for known and measurable changes to expenses and revenues in the twelve month period following the end of the test year. Therefore, we have included a net margin of \$98,438 related to 280 day customers who converted from interruptible service. This adjustment is consistent with the testimony of Witness Chicoine (Exhibit 20B).

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The Commission is aware that Staff's testimony would make further adjustments to revenue to annualize changed circumstances and to more fully recognize that the Londonderry/Derry Line is being more fully utilized as the customer base grows. However, in order to remain consistent with our matching principle, we have only accepted an adjustment for increased revenues for test year interruptible customers who converted to 280 day service to reflect only increased revenues from those customers in the twelve months after the test year.

In regard to the PUC assessment the Commission agrees that the expense should be based upon an accrual accounting basis. We have, however, arrived at a different amount based upon our methodology of using only known and measurable changes when comparing test year expenses to the twelve month period immediately following the test year. We have arrived at the amount of \$200,611 for the twelve month period based upon actual costs for nine months ending June 30 and an accrual of one quarter of the 1993 assessment, thus resulting in a pro forma adjustment of \$24,053.

We adopt Staff's calculation of those ENI expenses which should be allocated to ENGI.

Under the contract on file with the Commission, ENI's affiliates may have been free to modify the allocations established in the formula contained therein; however, pursuant to RSA 366:3 any such modification had to be filed with the Commission. The Company did not file the modifications with the Commission, and, furthermore, it failed to meet its burden of persuasion in this proceeding that the modifications it did make were just and reasonable.

We reject Staff's position relative to the Company's consulting contract with its former CEO. It is a usual and customary practice for a business entity to retain the consulting services of its former CEO or other critical positions during the transition to a new CEO. Furthermore, the consulting contract negated the need to fill a vacant position in the test year, thereby reducing overall costs.

In regard to the capitalization of sales staff salaries, the evidence in this case did not support the type of relationship between the sales staff and the installation of new assets justifying the capitalization of any portion of their salaries. Thus, these salaries shall be computed, totally, as an expense item.

As Staff pointed out in its testimony and we confirm, the Uniform System of Accounts for Gas Utilities provides an expense account for sales salaries, Account 1786. In calculating the revenue requirement the sales salary expense has been included in pro forma expenses in the amount of \$127,715.

In regard to vehicle expenses, any costs associated with the use of a Company vehicle for on-call safety reasons are appropriate and should be included in rates. However, the grossing up of certain officer salaries to offset the tax consequences of their personal use of a Company vehicle is not an appropriate expense to pass on to ratepayers and will not be considered in the setting of rates.

In regard to weekly officers' luncheons, we find that the expenses requested by the Company, which include the use of a private room to allow for private business discussions, and the cost of the meals (\$7.00) are reasonable.

We will adopt the Company position related to the cost of retaining outside counsel to represent the Company at rulemaking hearings because our dockets contain continuing rulemakings which require company participation.

The last expense item was the so-called \$13,000 known and measurable reduction in telephone expenses. We believe there was a misunderstanding between the Staff and the Company relative to this item, which was clarified in the Company's brief. Although the Company reported a \$13,000 "savings" in telephone expenses, the actual cost of telephone service rose to \$349,000 in the twelve months following the test year. As this is a known and measurable change, the full amount will be included in the computation of a revenue deficiency.

In reviewing the records included in Staff's audit, it was determined that the sales expense to reactivate services was actually booked as an expense in September 1991. Therefore, the costs have already been included in the test year income statement.

Finally, we will address the cost of capital. The only outstanding issue in this area is the rate of return on equity. We adopt Staff's

recommended 10.39% as the appropriate return on equity.

As was cited and accepted by both Parties and the Staff, a utility is constitutionally entitled to an opportunity to realize a return on its investment equivalent to firms of similar risk and sufficient to attract capital in the prevailing markets, but not so high as to be speculative. *Bluefield Water Works and Improvement v. Public Service Commission*, 26 U.S. 679, 672 (1923); *Federal Power Commission v. Hope*, 320 U.S. 591 (1944).

Initially, we will address the Company's assertion that it is subject to peculiar risks not experienced by similar natural gas LDCs. The Company contends that the Federal Energy Regulatory Commission's Order No. 636 (Order 636), regulatory risk, New Hampshire's weather and the Company's size present particular risks that should be used to adjust its return on equity to the upper end of the "zone of reasonableness".

We are not persuaded that Order 636 subjects the Company to any greater risk than other LDCs by Order 636. In fact, the record evidence establishes that all LDCs will be subject to similar advantages and risks that result from Order 636.

The Company's argument relative to regulatory risk is also unpersuasive. The only evidence presented to the Commission relative to investor perception of regulatory risk was Exhibit 6, which placed New Hampshire squarely in the "middle of the road" relative to investor perceptions of regulatory risk. The suggestion that the Company suffers greater regulatory risk than other New Hampshire utilities, i.e., they are singled out for harsher treatment by the Commission and its Staff, is probably a misperception shared by the other utilities under our regulation. It is without merit.

The Company also contends that its size, relative to the other utilities analyzed in computing a return on equity, makes it a riskier investment. We are not persuaded. The record indicates that the Company has adequate access to the capital markets and its stock is freely traded on the NASDAQ exchange.

Finally, the Company presented evidence that its geographical service area had the highest heating degree days of any of the sample companies used by any of the witnesses in computing a cost of capital. This fact was contested by the OCA. Assuming the Company is correct, higher heating degree days in and of themselves do not constitute a measure of greater risk. It is the volatility of degree days from year to year that affects risk, not the absolute level of degree days. Thus, the record does not support the Company's position.

The next substantive issue of dispute between the experts was the computation of a growth rate for the DCF model. The Company relied solely on earnings projections in its computation of a growth rate, while the OCA and the Staff used weighted combinations of forecasted and historical earnings and dividends to compute a growth rate. The OCA also gave minimal weight to book value in calculating the DCF growth rate. We decline to accept a DCF analysis using only forecasted earnings to compute a growth rate.

All three expert witnesses testified that the DCF methodology relies on projecting dividends into perpetuity to determine a discounted cost of equity for the sample in question. All three experts also testified that dividends are a function of earnings. While the two are equal in the

long run, we believe the so-called long run is beyond the average investor's investment horizon. Thus, retained earnings and a utility's desire to maintain steady dividend growth over time lead us to the conclusion that the use of only earnings forecasts in computing a growth rate do not provide an accurate return on equity. Indeed, the use of any one measure of growth alone excludes information we believe investors consider in making their investment decisions.

Furthermore, using the same "judgment" factor applied by the Company in choosing a methodology for deriving a growth rate, the capital market, we believe both the Staff's and the OCA's return on equity more accurately reflect a just and reasonable rate of return.¹⁽¹⁴⁾ The Company's requested rate of return on equity is simply not consistent with the current low level of interest rates.

Finally, we see no reason to abandon the DCF method, and continue to view it as the most appropriate method for estimating the rate of return on equity. Other methods may serve as a useful "sanity check", but will not be

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accepted as a primary method for determining a utility's allowed rate of return. We do not agree that exclusive reliance on the DCF method is inappropriate.

IV. REVENUE REQUIREMENT

Based upon the findings in this report, the Company's revenue requirement is calculated as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Rate Base	\$68,515,478
2(15)Rate of Return	9.83%
Required Net Operating Income	<u>\$6,735,071</u>
Adjusted Net Operating Income	6,472,948
Required Increase	<u>262,123</u>
Tax Effect (x .515152)	135,033
Required Increase	<u>\$ 397,157</u>

The following is the pro forma income statement which results from the approved adjustments:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Test Yr. 12 Mos. Ended	Pro Forma Adj.	Pro Forma Test Yr.
Operating Revenues	9/30/91		
Revenues - Firm	59,987,663	5,788,144	65,775,807

Revenues - Wholesale			
Revenues - Other	1,472,975		1,472,975
Interruptible Revenues	1,931,931		1,931,931
Unbilled Revenues Recoupment			
Unbilled Revenues - Meter	310,144		310,144
Read Cycle (Current)	89,194		89,194
Special Contract	122,744		122,744
Total Revenues	63,914,651	5,788,144	69,702,795
Operating Expenses			
Cost of Gas - Firm	33,058,838	3,169,279	36,228,117
Cost of Gas - Other	1,931,931		1,931,931
Other Production	1,620,490	(39,266)	1,581,224
Distribution	5,309,672	141,917	5,451,589
Customer Accounting	3,871,210	201,657	4,072,867
Sales and New Business	444,106	71,519	515,625
Administrative and General	6,235,935	(112,722)	6,123,213
Interest on Customer Deposits	124,055	(25,804)	98,251
Taxes:			
Federal Income Tax	453,857	849,039	1,302,896
Property and Payroll	2,136,417	(48,612)	2,087,805
State	626,713		626,713
Other	184,380		184,380
Depreciation	3,167,183	135,549	3,302,732
Amortization	193,552	(18,909)	174,643
Total Revenue Deductions	59,358,339	4,323,647	63,681,986
Net Operating Income	4,556,312	1,464,497	6,020,809
Operating Rents - Net	452,050		452,050
Other Utility Income	89		89
Net Gas Operating Income	5,008,451	1,464,497	6,472,948

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Because the Company placed its filed rates into effect on November 1, 1992, under bond, a refund will be required to be made for those revenues that have been collected at rates higher than are approved by this report. RSA 378:6 III. The Company shall file compliance tariffs to reflect the allowed increase and a proposed plan for refunds. Due to the fact that a surcharge tariff has been filed to collect rate case expenses in the Company's previous rate filing, docket DR 90-183, effective April 1, 1993, the Commission will allow the Company to offset the refund amount by the outstanding uncollected rate case expenses, \$159,543. In addition, to avoid or reduce another surcharge or to reduce any refund the Company will be required to make, we will allow the Company to offset the refund amount by the amount of rate case expenses incurred in this docket and we would therefore ask the Company to submit an accounting of those rate case expenses as expeditiously as possible.

Based on our review of the record, we find the revenue requirement, the rate of return detailed above, and the rates that derive therefor to be just and reasonable.

Our order will issue accordingly.

Concurring: March 1, 1993

ORDER

In consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that EnergyNorth Natural Gas, Inc. is granted a rate increase of \$397,157; and it is

FURTHER ORDERED, that the above granted rate increase be effective for bills rendered on or after the date of this order because the company placed its full rate request into effect, under bond, pursuant to RSA 378:6 III and placing the rates effect on a bills rendered basis is the only manner to equitably compute the customer's refund; and it is

FURTHER ORDERED, that the Company shall also provide us with an accounting of the revenues overcollected under bond compared to the permanent rates granted herein, along with a plan for refunding the overcollection; and it is

FURTHER ORDERED, that EnergyNorth Natural Gas, Inc. file tariff pages reflecting this report and order. Compliance tariffs shall be filed by March 15, 1993 for effect with all bills rendered on or after April 1, 1993.

By order of the Public Utilities Commission of New Hampshire this first day of March, 1993.

FOOTNOTES

¹ The following is a calculation of the overall cost of capital:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Total	Component Ratio	Cost Rate	Wt'd Avg. Cost of Capital
Common Equity	\$37,145,535	49.33%	10.39%	5.13%
Long Term Debt	\$35,361,660	46.96%	9.55%	4.48%
Short Term Debt	\$2,798,734	3.72%	6.00%	0.22%
Total	\$75,305,929	100.01%		9.83%

This capital structure reflects an adjustment to Staff's calculation by adding the \$935,000 from the so called New Hampshire Supreme Court's take-or-pay decision to retained earnings.

² Rate base is calculated as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Gross Plant	\$103,730,024
Less: Construction Work in Progress	183,452
Plant in Service	\$103,546,572
Less: Accumulated Depreciation	28,197,252
Contribution in Aid of Constr.	1,923,855
Capitalized Leases	381,819
Net Plant in Service	73,043,646
Add: Working Capital	(4,528,168)
Rate Base	\$68,515,478

NH.PUC*03/08/93*[75015]*— NH PUC —*Pennichuck Water Works, Inc.

[Go to End of 75015]

Re Pennichuck Water Works, Inc.

DR 92-220
Order No. 20-777

— NH PUC —

New Hampshire Public Utilities Commission

March 8, 1993

Report Addressing Intervention and Procedural Schedule.

[THE FOLLOWING CASE WAS NOT PUBLISHED IN NEW HAMPSHIRE VOLUME 78.]

Appearances: Gallagher, Callahan & Gartrell by John B. Pendleton, Esq. on behalf of Pennichuck Water Works, Inc.; Ransmeier & Spellman by Dom S. D'Ambruso, Esq. on behalf of Anheuser-Busch, Inc.; Larry S. Eckhaus, Esq. on behalf of Southern New Hampshire Water Company, Inc.; Eugene F. Sullivan, III, Esq. and Barclay Jackson, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On November 19, 1992, Pennichuck Water Works, Inc. (Pennichuck) filed a Notice of Intent to File Rate Schedules. On January 15, 1993, Pennichuck filed a Petition for Permanent Rate Increase to be effective February 15, 1993 (Petition). Coincident with the Petition, Pennichuck submitted a petition for temporary rate relief and revised tariff pages. By Order No. 20,753, dated February 8, 1993, the Commission suspended Pennichuck's revised tariff pages and ordered a pre-hearing conference to address procedural matters be held before the Commission on February 26, 1993.

The February 26, 1993 hearing was attended by John B. Pendleton, Esq. for Pennichuck; Dom S. D'Ambruso, Esq., for Anheuser-Busch, Inc. (A-B); Larry S. Eckhaus, Esq. for Southern New Hampshire Water Company, Inc. (Southern); and the Commission Staff (Staff). Motions for intervention and for limited intervention were received from A- B and Southern respectively. No objections were interposed to these motions.

Pennichuck, A-B, Southern, and the Staff stipulated to the following procedural schedule, agreeing that data requests and data responses shall be due in hand on the dates listed below.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Prehearing Conference and Company February 26, 1993
Temporary Rate Testimony

Staff Testimony on Temporary
Rates March 5, 1993

Temporary Rate Hearing March 9, 1993 9:00 A.M.

Staff Data Requests	April 21, 1993
Company Data Responses	May 4, 1993
Staff's Second Set of Data Requests	May 11, 1993
Company's Second Set of Data Responses	May 18, 1993
Staff/Intervenor Testimony	June 11, 1993
Settlement Conference	June 17, 1993 9:00 A.M.
Company Data Requests	June 22, 1993
Company Rebuttal Testimony	June 25, 1993
Staff/Intervenor Data Responses	July 6, 1993
Staff Rebuttal Testimony	July 9, 1993
Settlement Conference	July 13 & July 20, 1993
Hearings	August 3, 4 & August 5, 1993

II. COMMISSION ANALYSIS

The Commission finds the foregoing schedule to be in the public good. We grant A-B full intervenor status with respect to issues of revenue allocation and rate structure, under Puc 203.02(a)(2). Although Southern petitioned for intervention under the standard of N.H. Admin. Rules, Puc 203.02(a)(2), discussion during the hearing centered on limited intervention. We therefore grant Southern limited intervenor status under Puc 203.03.

Our order will issue accordingly.

Concurring: March 8, 1993

ORDER

In consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that the procedural schedule stipulated to between the parties and the Staff and set forth in the foregoing Report is adopted for the duration of this matter; and it is

FURTHER ORDERED, that the dates established herein for filing of testimony, data requests and responses, settlement conferences or technical sessions may be changed by agreement of the parties without further Commission authorization so long as commission hearing dates are unaffected by the change; any change in Commission hearing dates shall require prior commission approval; and it is

FURTHER ORDERED, that Anheuser-Busch, Inc. is granted full intervenor status and that Southern New Hampshire Water Company, Inc. is granted limited intervenor status.

By order of the Public Utilities Commission of New Hampshire this eighth day of March, 1993.

=====

NH.PUC*03/08/93*[75016]*78 NH PUC 126*Connecticut Valley Electric Company, Inc.

[Go to End of 75016]

Re Connecticut Valley Electric Company, Inc.

DF 93-026
Order No. 20,778
78 NH PUC 126

New Hampshire Public Utilities Commission

March 8, 1993

Petition to Approve Short Term Debt.

BY THE COMMISSION:

ORDER

WHEREAS, Connecticut Valley Electric Company, Inc. (the "company" or "CVEC") pursuant to RSA 369:7 filed with this commission on February 11, 1993 a petition to approve short term financing; and

WHEREAS, the company states that the amount of short term financing required to meet temporary working capital needs resulting from the company's growth and from the introduction of seasonal rates in the Connecticut Valley service territory which will produce revenue flow not in synchronization with cash flow requirements; and

WHEREAS, the commission's current approval of \$1,000,000 of short term financing, granted in Order No. 20,401 in Docket DF 92-008, expired on February 28, 1993; and

WHEREAS, the company requests that this \$1,000,000 short term debt limit be renewed at the same limit for the next 12 months; and

WHEREAS, the Bank East Division of First New Hampshire Bank has reaffirmed its \$1,000,000 line of credit to the company; and

WHEREAS, the company states that the short term note is a demand note issued December 20, 1991 and reaffirmed on June 9, 1992 with a floating interest rate equal to Bank of Boston's prime rate; and

WHEREAS, the New Hampshire Public Utilities Commission, pursuant to RSA 369:7, finds that the renewal in the short term debt line of \$1,000,000 as proposed in the petition is consistent with the public good; it is hereby

ORDERED, that the \$1,000,000 short term debt level will remain in effect until February 28, 1994; and it is

FURTHER ORDERED, that Connecticut Valley Electric Company, Inc. shall on January first and July first of each year, file with this commission a detailed statement, duly sworn by its Treasurer, showing the disposition of the proceeds of such note; and it is

FURTHER ORDERED, that the order shall be effective as of the date of this order.

By order of the New Hampshire Public Utilities Commission this eighth day of March, 1993.

=====

NH.PUC*03/08/93*[75017]*78 NH PUC 126*New England Telephone and Telegraph Company

[Go to End of 75017]

Re New England Telephone and Telegraph Company

DR 93-028

Order No. 20,779

78 NH PUC 126

New Hampshire Public Utilities Commission

March 8, 1993

Order Granting Interim Protective Treatment Regarding Fiber Distributed Data Interface.

BY THE COMMISSION:

ORDER

On February 17, 1993, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission) a request for approval of a special contract for Fiber Distributed Data Interface service between NET and Lockheed Sanders Incorporated (Special Contract). Included in the filing were supporting materials to explain the purpose of the contract, its cost basis, and billing service details (Supporting Materials); and

WHEREAS, NET filed requested interim proprietary treatment and filed a Motion for Protective Order on the Special Contract and Supporting Materials; and

WHEREAS, in its motion NET states that the Special Contract and Supporting Materials contain customer-specific and competitively sensitive data including "cost analyses, information regarding specific service features; and other contract terms such as term, special rates and billing information;" and

WHEREAS, the information identified above is a necessary part of the filing, and important for staff to review in evaluating the proposed offering; and

WHEREAS, the Commission recognizes the importance of staff having the opportunity to review fully the materials which support a proposed special contract, in order to responsibly carry out its duties; it is hereby

ORDERED, that the Motion for Protective Order be, and hereby is, granted on an interim

basis to allow staff review of the Special Contract and Supporting Materials; and it is FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Commission staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this eighth day of March, 1993.

=====

NH.PUC*03/08/93*[75018]*78 NH PUC 127*GTE Maine, Inc.

[Go to End of 75018]

Re GTE Maine, Inc.

DR 93-050
Order No. 20,780
78 NH PUC 127

New Hampshire Public Utilities Commission

March 8, 1993

Order Approving 900 Blocking Service for East Conway and Chatham, NH Exchanges.

BY THE COMMISSION:

ORDER

On February 5, 1993 Contel of Maine, Inc. d/b/a/ GTE Maine (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) for effect March 10, 1993 seeking to extend 900 Blocking service to its residential and single line business customers in the East Conway and Chatham, New Hampshire Exchanges; and

WHEREAS, the Company proposes to offer initial blocking to residential and single line business customers at no charge, with subsequent changes subject to applicable service charges as set forth in Section 6 of the Company's tariff; and

WHEREAS, the Company's filing contained no cost support; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 4

Section 5, Ninth Revised Contents

Section 5, Fifth Revised Sheet 16,

are approved, effective as of the date of this order; and it is

FURTHER ORDERED, that the Company's incremental cost study due to be filed by September 30, 1993, include these two exchanges; and it is

FURTHER ORDERED, that if review of the incremental cost study and subsequent

discovery indicate that the rates are below their incremental costs, GTE's stockholders will make up the deficiency between the rates charged and the incremental costs, for the period during which the rates did not cover their costs; and it is

FURTHER ORDERED, that the above revisions to Contel of Maine, Inc., d/b/a GTE Maine, General Exchange Tariff, P.U.C. No. 4 be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this eighth day of March, 1993.

=====

NH.PUC*03/09/93*[75019]*78 NH PUC 127*Public Service Company of New Hampshire

[Go to End of 75019]

Re Public Service Company of New Hampshire

DR 93-006

Order No. 20,781

78 NH PUC 127

New Hampshire Public Utilities Commission

March 9, 1993

Order *Nisi* Approving Special Contract No. 80.

BY THE COMMISSION:

ORDER

On January 18, 1993, the Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-80 with Tilcon Maine, Inc., (Tilcon) a New Hampshire corporation located in Farmington, New Hampshire; and

WHEREAS, Tilcon has historically had a low monthly load factor that would be affected quite adversely by the Rate Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, Tilcon currently takes electric service under Primary General Service Rate GV; and

WHEREAS, PSNH indicates that Tilcon's average hours' use of maximum demand over the preceding twelve months has been less than 200 hours and that Tilcon's billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, Tilcon has the necessary metering installed to implement the Pilot Load Management Program for Interruptible Service; and

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WHEREAS, Special Contract NHPUC-80 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commission approved in conjunction with other rate design changes in DR 91-001 (Report and Order No. 20,504, June 8, 1992); and

WHEREAS, Special Contract NHPUC-80 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation; it is hereby

ORDERED *NISI*, that Special Contract No. NHPUC-80 between PSNH and Tilcon is approved; and it is

FURTHER ORDERED, that PSNH provide a report no later than October 1, 1994, on the number, nature, and time of interruptions called by PSNH as well as Tilcon's response to such calls, and what, if any actions Tilcon has undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a newspaper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than March 19, 1993, said publication to be documented by affidavit filed with this office on or before April 7, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the publication date of this order; and it is

FURTHER ORDERED, that this order *Nisi* will be effective 20 days after the publication date of this order unless the Commission provides otherwise in a supplemental order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this ninth day of March, 1993.

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NH.PUC*03/09/93*[75020]*78 NH PUC 128*Public Service Company of New Hampshire

[Go to End of 75020]

Re Public Service Company of New Hampshire

DR 93-017

Order No. 20,782

78 NH PUC 128

New Hampshire Public Utilities Commission

March 9, 1993

Order *Nisi* Approving Special Contract No. 81.

BY THE COMMISSION:

ORDER

On January 27, 1993, the Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-81 with Coastal Materials Corporation, (Coastal) a New Hampshire corporation located in Raymond, New Hampshire; and

WHEREAS, Coastal has historically had a low monthly load factor that would be affected quite adversely by the Rate Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, Coastal currently takes electric service under Primary General Service Rate GV; and

WHEREAS, PSNH indicates that Coastal's average hours' use of maximum demand over the preceding twelve months has been less than 200 hours and that Coastal's billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, Coastal has the necessary metering installed to implement the Pilot Load Management Program for Interruptible Service; and

WHEREAS, Special Contract NHPUC-81 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commission approved in conjunction with other rate design changes in DR 91-001 (Report and Order No. 20,504, June 8, 1992); and

WHEREAS, Special Contract NHPUC-81 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation; it is hereby

ORDERED *NISI*, that Special Contract No. NHPUC-81 between PSNH and Coastal is approved; and it is

FURTHER ORDERED, that PSNH provide a report no later than October 1, 1994, on the number, nature, and time of interruptions

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called by PSNH as well as Coastal's response to such calls, and what, if any actions Coastal has undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a newspaper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than March 19, 1993, said publication to be documented by affidavit filed with this office on or before April 7, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the publication date of this order; and it is

FURTHER ORDERED, that this order *Nisi* will be effective 20 days after the publication date of this order unless the Commission provides otherwise in a supplemental order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this ninth day of March, 1993.

=====

NH.PUC*03/09/93*[75021]*78 NH PUC 129*Public Service Company of New Hampshire

[Go to End of 75021]

Re Public Service Company of New Hampshire

DR 93-018

Order No. 20,783

78 NH PUC 129

New Hampshire Public Utilities Commission

March 9, 1993

Order *Nisi* Approving Special Contract No. 82.

BY THE COMMISSION:

ORDER

On January 27, 1993, the Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-82 with Coastal Materials Corporation, (Coastal) a New Hampshire corporation located in Manchester, New Hampshire; and

WHEREAS, Coastal has historically had a low monthly load factor that would be affected quite adversely by the Rate Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, Coastal currently takes electric service under Primary General Service Rate GV; and

WHEREAS, PSNH indicates that Coastal's average hours' use of maximum demand over the preceding twelve months has been less than 200 hours and that Coastal's billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, Coastal has the necessary metering installed to implement the Pilot Load Management Program for Interruptible Service; and

WHEREAS, Special Contract NHPUC-82 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commission approved in conjunction with other rate design changes in DR 91-001 (Report and Order No. 20,504, June 8, 1992); and

WHEREAS, Special Contract NHPUC-82 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation; it is hereby

ORDERED *NISI*, that Special Contract No. NHPUC-82 between PSNH and Coastal is

approved; and it is

FURTHER ORDERED, that PSNH provide a report no later than October 1, 1994, on the number, nature, and time of interruptions called by PSNH as well as Coastal's response to such calls, and what, if any actions Coastal has undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a newspaper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than March 19, 1993, said publication to be documented by affidavit filed with this office on or before April 7, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the publication date of this order; and it is

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FURTHER ORDERED, that this order *Nisi* will be effective 20 days after the publication date of this order unless the Commission provides otherwise in a supplemental order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this ninth day of March, 1993.

=====

NH.PUC*03/09/93*[75022]*78 NH PUC 130*Public Service Company of New Hampshire

[Go to End of 75022]

Re Public Service Company of New Hampshire

DR 93-042

Order No. 20,784

78 NH PUC 130

New Hampshire Public Utilities Commission

March 9, 1993

Order *Nisi* Approving Special Contract No. 83.

BY THE COMMISSION:

ORDER

On February 24, 1993, the Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-83 with Bronze Craft Corporation, (Bronze Craft) a New Hampshire corporation located in Nashua, New Hampshire; and

WHEREAS, Bronze Craft has historically had a low monthly load factor that would be affected quite adversely by the Rate Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, Bronze Craft currently takes electric service under Large General Service Rate LG; and

WHEREAS, PSNH indicates that Bronze Craft's average hours' use of maximum demand over the preceding twelve months has been less than 250 hours and that Bronze Craft's billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, Bronze Craft has the necessary metering installed to implement the Pilot Load Management Program for Interruptible Service; and

WHEREAS, Special Contract NHPUC-83 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commission approved in conjunction with other rate design changes in DR 91-001 (Report and Order No. 20,504, June 8, 1992); and

WHEREAS, the customer, with the assistance of PSNH, has identified 450 kilovolt-amperes (kVA) of Firm Contract Demand and estimates its Interruptible Contract Demand will be 932 kVA which includes the customer's entire foundry operation in addition to the new load the customer is installing that will increase plant utilization; and

WHEREAS, the additional load has been planned before the Rate Phase-In Stipulation and is not being added as a result of the Rate Phase-In Stipulation;

WHEREAS, the additional load will not significantly improve Bronze Craft's load factor and will be completely interrupted with the remainder of the foundry load thereby meeting the spirit of the Rate Phase-In Stipulation; and

WHEREAS, Special Contract NHPUC-83 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation in all other aspects; it is hereby

ORDERED *IN PART*, that Special Contract No. NHPUC-83 between PSNH and Bronze Craft is approved; and it is

FURTHER ORDERED, that PSNH provide a report no later than October 1, 1994, on the number, nature, and time of interruptions called by PSNH as well as Bronze Craft's response to such calls, and what, if any actions Bronze Craft has undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a newspaper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than March 19, 1993, said publication to be documented by affidavit filed with this office on or before April 7, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the publication date of this order; and it is

FURTHER ORDERED, that this order *Nisi* will be effective 20 days after the publication date of this order unless the Commission provides otherwise in a supplemental order issued prior thereto.

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By order of the New Hampshire Public Utilities Commission this ninth day of March, 1993.

NH.PUC*03/09/93*[75023]*78 NH PUC 131*Public Service Company of New Hampshire

[Go to End of 75023]

Re Public Service Company of New Hampshire

DR 93-043

Order No. 20,785

78 NH PUC 131

New Hampshire Public Utilities Commission

March 9, 1993

Order *Nisi* Approving Special Contract No. 84.

BY THE COMMISSION:

ORDER

On March 3, 1993, the Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-84 with Caron Box & Lumber, Inc., (Caron) a New Hampshire corporation located in Manchester, New Hampshire; and

WHEREAS, Caron has historically had a low monthly load factor that would be affected quite adversely by the Rate Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, Caron currently takes electric service under Primary General Service Rate GV; and

WHEREAS, PSNH indicates that Caron's average hours' use of maximum demand over the preceding twelve months has been less than 200 hours and that Caron's billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, Caron has the necessary metering installed to implement the Pilot Load Management Program for Interruptible Service; and

WHEREAS, Special Contract NHPUC-84 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commission approved in conjunction with other rate design changes in DR 91-001 (Report and Order No.

20,504, June 8, 1992); and

WHEREAS, Special Contract NHPUC-84 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation; it is hereby

ORDERED *NISI*, that Special Contract No. NHPUC-84 between PSNH and Caron is approved; and it is

FURTHER ORDERED, that PSNH provide a report no later than October 1, 1994, on the number, nature, and time of interruptions called by PSNH as well as Caron's response to such calls, and what, if any actions Caron has undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a newspaper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than March 19, 1993, said publication to be documented by affidavit filed with this office on or before April 7, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the publication date of this order; and it is

FURTHER ORDERED, that this order *NISI* will be effective 20 days after the publication date of this order unless the Commission provides otherwise in a supplemental order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this ninth day of March, 1993.

=====

NH.PUC*03/09/93*[75024]*78 NH PUC 132*Public Service Company of New Hampshire

[Go to End of 75024]

Re Public Service Company of New Hampshire

DR 93-044

Order No. 20,786

78 NH PUC 132

New Hampshire Public Utilities Commission

March 9, 1993

Order *Nisi* Approving Special Contract No. 85.

BY THE COMMISSION:

ORDER

On February 24, 1993, the Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-85 with Charles Diprizio & Sons, Inc., (Diprizio & Sons) a New Hampshire corporation located in Middleton, New Hampshire; and

WHEREAS, Diprizio & Sons has historically had a low monthly load factor that would be affected quite adversely by the Rate Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, Diprizio & Sons currently takes electric service under Primary General Service Rate GV; and

WHEREAS, PSNH indicates that Diprizio & Sons average hours' use of maximum demand over the preceding twelve months has been less than 200 hours and that Diprizio & Son's billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, Diprizio & Sons has the necessary metering installed to implement the Pilot Load Management Program for Interruptible Service; and

WHEREAS, Special Contract NHPUC-85 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commission approved in conjunction with other rate design changes in DR 91-001 (Report and Order No. 20,504, June 8, 1992); and

WHEREAS, Special Contract NHPUC-85 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation; it is hereby

ORDERED *NISI*, that Special Contract No. NHPUC-85 between PSNH and Diprizio & Sons is approved; and it is

FURTHER ORDERED, that PSNH provide a report no later than October 1, 1994, on the number, nature, and time of interruptions called by PSNH as well as Diprizio & Sons' response to such calls, and what, if any actions Diprizio & Sons had undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a newspaper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than March 19, 1993, said publication to be documented by affidavit filed with this office on or before April 7, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no latter than 15 days after the publication date of this order; and it is

FURTHER ORDERED, that this order *NISI* will be effective 20 days after the publication date of this order unless the Commission provides otherwise in a supplemental order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this ninth day of March, 1993.

=====

NH.PUC*03/09/93*[75025]*78 NH PUC 132*Public Service Company of New Hampshire

[Go to End of 75025]

Re Public Service Company of New Hampshire

DR 93-046
Order No. 20,787
78 NH PUC 132

New Hampshire Public Utilities Commission

March 9, 1993

Order *Nisi* Approving Special Contract No. 86.

BY THE COMMISSION:

ORDER

On February 25, 1993, the Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-86 with White Mountain Lumber Company, (White Mountain) a New Hampshire corporation located in Berlin, New Hampshire; and

WHEREAS, White Mountain has historically had a low monthly load factor that would be affected quite adversely by the Rate

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Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, White Mountain currently takes electric service under Primary General Service Rate GV; and

WHEREAS, PSNH indicates that White Mountain's average hours' use of maximum demand over the preceding twelve months has been less than 200 hours and that White Mountain's billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, White Mountain has the necessary metering installed to implement the Pilot Load Management Program for Interruptible Service; and

WHEREAS, Special Contract NHPUC-86 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commission approved in conjunction with other rate design changes in DR 91-001 (Report and Order No. 20,504, June 8, 1992); and

WHEREAS, Special Contract NHPUC-86 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation; it is hereby

ORDERED NISI, that Special Contract No. NHPUC-86 between PSNH and White Mountain is approved; and it is

FURTHER ORDERED, that PSNH provide a report no later than October 1, 1994, on the number, nature, and time of interruptions called by PSNH as well as White Mountain's response to such calls, and what, if any actions White Mountain has undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a newspaper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than March 19, 1993, said publication to be documented by affidavit filed with this office on or before April 7, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the publication date of this order; and it is

FURTHER ORDERED, that this order *NISI* will be effective 20 days after the publication date of this order unless the Commission provides otherwise in a supplemental order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this ninth day of March, 1993.

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NH.PUC*03/09/93*[75026]*78 NH PUC 133*Public Service Company of New Hampshire

[Go to End of 75026]

Re Public Service Company of New Hampshire

DR 93-047

Order No. 20,788

78 NH PUC 133

New Hampshire Public Utilities Commission

March 9, 1993

Order *Nisi* Approving Special Contract No. 87.

BY THE COMMISSION:

ORDER

On February 25, 1993, the Public Service Company of New Hampshire (PSNH) filed Interruptible Service Special Contract No. NHPUC-87 with Thompson Center Arms Company, Inc., (Thompson) a New Hampshire corporation located in Rochester, New Hampshire; and

WHEREAS, Thompson has historically had a low monthly load factor that would be affected quite adversely by the Rate Redesign approved by the Commission on June 8, 1992 in DR 91-001; and

WHEREAS, Thompson currently takes electric service under Large General Service Rate LG; and

WHEREAS, PSNH indicates that Thompson's average hours' use of maximum demand over

the preceding twelve months has been less than 250 hours and that Thompson's billing demand in at least six of the last twelve months has exceeded 300 kilowatts; and

WHEREAS, Thompson has the necessary metering installed to implement the Pilot Load Management Program for Interruptible Service; and

WHEREAS, Special Contract NHPUC-87 is based on one of four Pilot Load Management Programs that were part of PSNH's May 15, 1992 Rate Phase-In Stipulation the Commis-

sion approved in conjunction with other rate design changes in DR 91-001 (Report and Order No. 20,504, June 8, 1992); and

WHEREAS, Special Contract NHPUC-87 appears to conform with the criteria and guidelines of the Rate Phase-In Stipulation; it is hereby

ORDERED *NISI*, that Special Contract No. NHPUC-87 between PSNH and Thompson is approved; and it is

FURTHER ORDERED, that PSNH provide a report no later than October 1, 1994, on the number, nature, and time of interruptions called by PSNH as well as Thompson's response to such calls, and what, if any actions Thompson has undertaken to improve its poor load factor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a newspaper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than March 19, 1993, said publication to be documented by affidavit filed with this office on or before April 7, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no latter than 15 days after the publication date of this order; and it is

FURTHER ORDERED, that this order *NISI* will be effective 20 days after the publication date of this order unless the Commission provides otherwise in a supplemental order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this ninth day of March, 1993.

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NH.PUC*03/09/93*[75027]*78 NH PUC 134*Granite State Electric Company

[Go to End of 75027]

Re Granite State Electric Company

DE 92-079

Order No. 20,789

78 NH PUC 134

New Hampshire Public Utilities Commission

March 9, 1993

Report Approving Least Cost Integrated Resource Planning Process.

Appearances: David J. Saggau, Esq. on behalf of Granite State Electric Company; Susan Chamberlin, Esq. on behalf of the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On April 30, 1992, Granite State Electric Company (Granite State, GSEC or the company) filed with the New Hampshire Public Utilities Commission (Commission) its Least Cost Integrated Resource Plan (LCIP) for the 15 year period 1992 to 2006. On June 10, 1992 the Commission issued an Order of Notice setting a prehearing conference for June 30, 1992. At the duly noticed prehearing conference, the Commission staff (staff) and the company submitted a procedural schedule which was accepted by Commission Order No. 20,530.

Staff explored the technical issues of the filing through data requests and technical sessions and filed testimony on November 6, 1992. The Commission held a hearing on the merits on December 11, 1992.

II. SUMMARY OF THE COMMISSION'S LCIP FILING REQUIREMENTS

A. *The Commission's Objective*

In April 1988, the Commission established least cost integrated planning (LCIP) requirements for New Hampshire's electric utilities pursuant to Order No. 19,052, *Re Public Service Company of New Hampshire*, 73 NHPUC 117 (1988), (hereafter Order No. 19,052). The goal of Order No. 19,052 was to establish a LCIP process whereby the Commission could review and evaluate utility resource

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planning practices and capabilities, and assess the context in which utilities were negotiating and contracting for power purchases from qualifying facilities (QFs). *See Granite State Electric Company*, DE 90-072, Order No. 20,442, (April 14, 1992), (hereafter Order No. 20,442). The objective of this review is to evaluate whether the utilities are planning properly. In the 1990 legislative session, the New Hampshire General Court codified the Commission's LCIP requirements by enacting legislation requiring utility least cost integrated planning. RSA 378:37-39 (Supp. 1992).

Commission acceptance of a utility's least cost resource plan indicates that the utility's resource planning process is adequate. Approval of a particular filing does not constitute approval of specific resources included in the plan. However, one of the ways that the

Commission determines whether a utility's resource planning process is adequate is by evaluating the specific resources in the plan. In the Commission's least cost planning reviews, the evaluation of specific resources does not rise to the level of determining the prudence of the particular resource, but rather, the adequacy and prudence of the utilities' planning processes. The Commission will review and analyze whether any particular resource option is prudent and used and useful when the utility brings it before the Commission in a cost recovery or rate proceeding. Order No. 20,442, *supra*.

B. *The Commission's Requirements*

The utilities are required to file reports in seven areas to document their LCIP processes. The seven reports include:

1. a 15 year forecast of future demand with base, high and low alternatives;
2. an assessment of demand-side resource options;
3. an assessment of supply-side resource options;
4. an assessment of transmission requirements, limitations and constraints;
5. an integration of demand- and supply-side resource options;
6. a two-year implementation plan; and
7. projections of long term avoided costs.

Order No. 19,052 *supra* at 127; *Re Granite State Electric Company*, 74 NHPUC 325 (1989).

C. *The Commission's Review Criteria*

The Commission reviews the utilities' LCIP filings according to the criteria indicated by the requirements of Order No. 19,052 *supra*:

1. completeness in meeting the reporting requirements;
2. comprehensiveness in identifying and assessing all resource options, both on the demand-side and the supply-side;
3. integration of the planning process, *i.e.*, evaluating demand- and supply-side options in an equivalent manner and addressing issues of coordinated timing in the acquisition of resources;
4. feasibility of implementation of the least cost resource plan; and
5. adequacy of the planning process, *i.e.*, providing for resources in a timely manner sufficient to meet the electricity and energy service needs of utility customers both now and for the future.

Re Granite State Electric Company, *supra* at 329 (1989).

III. SUMMARY OF GSEC'S 1992 LCIP FILING

GSEC is the New Hampshire retail subsidiary of New England Electric System (NEES), a holding company with generation, transmission and retail subsidiaries serving Massachusetts and Rhode Island as well as New

Hampshire. New England Power Company (NEP) is the wholesale subsidiary of NEES which supplies GSEC. GSEC represents approximately 3 percent of the NEES system in terms of both peak load and annual energy requirements. NEES develops its long range resource plans on an integrated system-wide basis.

A. Need for Additional Capacity

Currently the companies of NEES (the companies) expect to have no need for additional uncommitted resources until the year 2000. Exhibit (Exh.) 5 at 3. The next avoided unit at that time is projected to be a gas turbine peaking unit. Exh. 8 at 242. The long time frame before additional resources are needed is due to lower sales growth, reductions in customer demand as a result of conservation and load management programs and the expectation that previously committed supply-side resources will be coming on line. *Id.*

B. Summary of GSEC's 1992 Integrated Least Cost Resource Plan

The companies plan on an integrated basis with the goal of meeting total system energy and capacity requirements. Resources are included based on a comparison with other alternatives to acquire the least cost mix of resources. Issues of flexibility, diversity and environmental sensitivity are also balanced in the comparison. Exh. 1a ch. 4, at 1.

Granite State's LCIP contains a mix of supply and demand-side resources, including conservation and load management programs, renewable resources, utility generation and independent generation. Exh. 5 at 4; Exh. 1a ch. 2. Since 1990, the companies have added approximately 612 Megawatts (MW)⁶ of supply resources. Additions include power purchases or entitlements from Seabrook and Hydro- Quebec II, and non-utility projects including Ocean State Power, Altresco and Pawtucket. Exh. 5 at 5. Resources not included in the companies' resource inventory include the South Street plant which was deactivated in 1991 and the Yankee Atomic plant in Rowe, Massachusetts which was retired in 1992. *Id.* Two non-utility generation (NUG) projects, Coastal and Ware, have been cancelled. Exh. 1a ch. 2 at 1. Planned supply resource additions since 1990 include up to 40 MW from the December 1991 NEP Request for Proposals solicitation for renewable resources; a net increase of 307 MW (expected summer capacity rating) of gas fired generation from the Manchester Street repowering in Providence, Rhode Island by 1996 and an anticipated increase of 32 MW of capacity from the existing Comerford hydro station. *Id.* at 2.

NEES plans to have enough resources to have an 80% confidence level that it can meet its NEPOOL capability responsibility for the first five years. That confidence level gradually lowers to 50% by the tenth year. Transcript of December 11, 1992 (Tr.) at 55.

C. Avoided Costs

1. Avoided Capacity Costs

The companies originally determined that there is no short term value to NEP for additional capacity. Exh. 1a. ch. 9 at 3. GSEC reported NEP's avoided capacity costs to be zero until the year 2000, when the next avoided unit is projected to be needed. Exh. 5 at 5.

2. Avoided Energy Costs

GSEC's avoided energy costs are based on the NEP's system costs. Two computer runs are needed to establish avoided energy cost projections over an entire year. The first run uses NEP's estimated load duration curve with a 100MW increment of load added to all hours. The second run is made subtracting a 100 MW decrement of load from all hours. The average annual avoided energy cost in cents/kwh is determined by dividing the difference in NEP's total fuel cost by the difference in energy served during each of the two runs. Exh. 1a. ch. 9 at 3-4; Exh. 8 at 244.

3. Total Avoided Costs

Estimated avoided costs during the period 1992-1999, prior to the gas turbine proxy unit's in-service date, are the sum of projected system

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marginal energy costs and avoided capacity purchase costs. Exh. 1a. ch. 9 at 3-4; Exh. 8 at 247.

D. Procedures for Negotiating and Contracting With Qfs

GSEC and NEES use a combination of requests for proposals (RFPs) and individual negotiation to contract for power purchases from QFs. NEP issued the "Green RFP" in December of 1991 soliciting proposals for up to 200 megawatt hours (MWH) of renewable energy. The company received proposals totaling 1.4 million MWH. The company is currently analyzing the proposals and expects to select individual projects in early 1993. Exh. 1a ch. 8 at 2.

Also in April, 1992, NEP and Massachusetts Electric Company (MECo) jointly issued a solicitation for 200 MW of generating capacity to start in 1997 from both utility and non-utility sources. The RFP contains buyout provisions that allow NEP and MECo to terminate purchase obligations through the end of 1994. NEP projects that the selection of proposals will be completed in early 1993, and contracts for purchasing the 200 MW will be completed in late 1993. *Id.*

IV. COMMISSION FINDINGS

The Commission has evaluated GSEC's least cost integrated planning process by reviewing and analyzing its integrated least cost resource plan for the period 1992-2006, Exhs. 1-5 and 7, the responses to staff's data requests, Exh. 8, staff testimony, Exh. 6, and the hearing transcript with related company exhibits 9 and 10. We have taken into account GSEC's affiliations with NEES and NEP and that it is largely NEES' planning process that is reflected in GSEC's filing.

A. Completeness of the Filing

The Commission finds GSEC's filing to be complete. GSEC's 1992 LCIP addresses the seven reporting areas required by the Commission to document its LCIP processes: forecasting, demand-side assessment, supply-side assessment, integration of demand and supply side options, short term action plan and avoided cost projections. Order No. 19,052 *supra*.

In staff's testimony, Ms. Planchet noted three specific requirements from the Commission's order on GSEC's 1990 LCIP which GSEC was to fulfill in its 1992 filing: a description of GSEC's gas sources; an explanation of benefits received for contracting for certain types of

independent generation; and a report on Clean Air Act Amendment (CAAA) compliance actions. Exh. 6 at 3 citing *Granite State Electric Company Least Cost Integrated Planning*, DE 90-072, Order 20,442, (April 14, 1992).

GSEC complied with the first two directives by filing "Appendix J - Gas Supply Plans" and providing an explanation in its supply side assessment of the advantages and disadvantages in contracting with non-utility generators (NUGs). Exhs. 1a-c. GSEC will meet the third requirement when it files a report on its CAAA compliance actions in July of 1993, as the company expects to complete its study of cost and performance characteristics of available options at that time. Tr. at 58-59. The Commission is satisfied with GSEC's response to its previous order and the overall presentation of the least cost integrated resource planning process.

B. *Adequacy of the Planning Process*

1. Forecasting

NEES uses a combination of econometric and end-use models to forecast peak and energy demands for the system and its retail subsidiaries.¹⁽¹⁶⁾ The companies sum the residential, commercial, industrial, and street lighting energy forecasts, comparing those loads to typical load shapes in each of the classes. Tr. at 23. A model then computes the demand at each hour, picking up the single highs of demand or peak hourly demands. These demands are adjusted for conservation and load management (C&LM) impacts to reach the final demand forecast. Tr. at 23-24. The completed forecast is the basis for the year's integrated least-cost resource plan. *Id.*

In general, the New Hampshire long term outlook is more robust than it was a year ago

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but is still relatively slow in terms of a recovering economy. Tr. at 11. To develop a long term forecast specific to New Hampshire the company looks at several key economic drivers: manufacturing employment; non-manufacturing employment; real disposable income; population and industrial production indices. Exh 9.

New Hampshire makes up a small percentage of the NEES system load; Granite State is 2.9% of NEES' total energy sales. Tr. at 13. The long-term growth rate NEES forecasts for NEES system energy sales (including demand side management growth rates) is 1.6% compounded annually through time. Tr. at 12; Exh. 9. Granite State has a 1.7% growth rate in its long term sales forecast. Tr. at 13; Exh 9. NEES companies' peak demand, (including conservation and load management impacts), is expected to grow at 1.3 percent annually through time. In summary, NEES' energy rate is expected to grow at close to the same rate as that of demand, with Granite State experiencing slightly higher growth than the rest of the system. *Id.*

In her testimony, Ms. Planchet stated that the company uses very little GSEC or New Hampshire specific data in its forecasting, relying primarily on research and data derived from its other retail companies in Massachusetts or Rhode Island. Exh 6 at 7. Staff was concerned whether this data was applicable to Granite State's territory. In response, the company proposed to evaluate the use of Granite State specific data in its future forecasting. Exh. 7 at 3-4. At the hearing the company agreed to evaluate local or county level data, in residential and commercial classes as available from its current econometric service and local industrial data to the extent

that it is available from other sources. Tr. 26, 28. The company will file this evaluation in advance of its next long-term forecast. We find that this is an acceptable resolution of staff's concerns regarding the use of Granite State specific data for forecasting.

Staff also expressed concern with the deficiency in GSEC's end-use and load research. Exh. 6 at 10. In response, the company proposes to do more extensive load research sampling by installing meters with load research as well as billing capabilities. Tr. at 27. The company states that this information will improve the next New Hampshire long-term forecast by improving the load shapes associated with the forecast. Tr. at 28. The Commission finds that improving the information on New Hampshire's end uses will improve GSEC's forecasting and accepts the company's proposal to install the necessary meters.

2. Assessment of Demand-Side Options

GSEC's filing contains concise descriptions of NEES demand-side management (DSM) programs, the planning process, program screening and research and development. GSEC's DSM program proposals have been evaluated by this Commission in docket DR 92-161 and, with some modifications described in the context of that docket, were accepted. *Granite State Electric Company, Conservation and Load Management*, DR 92-161, Order No. 20,742 (February 4, 1993). The company's filing clearly demonstrates that it has, through its parent company, a process for assessing and developing demand-side options. We find GSEC's assessment of demand-side options to be comprehensive and to fulfill the requirements of Order No. 19,052 *supra*.

3. Assessment of Supply-Side Options

The Commission also finds GSEC's process for assessing and developing supply-side options to be comprehensive and to fulfill the requirements of Order No. 19,052 *supra*. The Commission's directives from Order No. 20,442 *supra* for the company to provide additional information on some of its practices concerning supply side assessment were addressed earlier in Section A "Completeness of the Filing."

In her testimony Ms. Planchet noted that approval of the company's LCIP filing does not authorize cost recovery for its "Green" or "Contingent" RFP's. Exh. 6 at 11. The Commission will evaluate these proposals in a typical prudence investigation if and when GSEC files for cost recovery. The information pro-

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vided by the company does keep the Commission informed of its efforts to find cost-effective environmental initiatives and to that extent the Commission approves its inclusion in the LCIP filing.

4. Assessment of Transmission Requirement, Limitations and Constraints

The Commission finds that GSEC's transmission assessment is comprehensive and fulfills the requirements of Order Nos. 19,052 *supra* and 19,546, *Re Granite State Electric Company*, 74 NHPUC 325 (1989).

5. Integration of Demand- and Supply-Side Resource Options

The integration of demand and supply side options is discussed in Exh. 1a ch.4, "The LCIP-92 Planning Process." The Commission finds that GSEC's process for integrating demand- and supply-side resource options is comprehensive, integrated and adequate to meet the requirements of Order No. 19,052.

The Commission further finds that the confidence level of 80%, the same level approved in the 1990 filing for planning in the early years, is reasonable and constitutes good planning practice. The company has changed its confidence level in later years from approximately 70%, which was the level approved in its 1990 filing, to 50%, the amount proposed here. We are concerned that Mr. Lowell's testimony on this issue does not consider the potential for higher costs associated with the tightening capacity market at the end of the century. Tr. at 55. Through the LCIP's of other electric companies, the Commission has been made aware of a general expectation that the capacity market will tighten in about ten years. If several New Hampshire companies rely on the short term market purchases, or if the market tightens sooner than expected, the price of capacity will rise according to the demand. This may result in purchases that are not the least cost means of acquiring the needed power. Therefore, we require the company to include in its next LCIP a more detailed explanation as to why it believes that having a 50% confidence level that it can meet its NEPOOL capability responsibility in the tenth year will result in the acquisition of least cost power supplies.

6. Short Term Action Plan

The Commission finds GSEC's short term action plan to be feasible and adequate to meet the requirements of Order Nos. 19,052 and 19,546, *supra*.

7. Avoided Costs

In Order No. 20,442, *supra*, the Commission found GSEC's 1990 filed long term avoided cost projections to be outdated. GSEC's updated filing had not been subject to full Commission review. As the avoided costs provide the maximum price for all QF purchase power arrangements, such a detailed review was necessary. These avoided cost calculations represent the cost of adding capacity that is potentially avoided by QF purchases. Therefore, the Commission did not accept GSEC's 1990 long term avoided costs, deferring a final adjudication until GSEC's 1992 LCIP filing. GSEC's long term avoided costs are reviewed as part of this docket.

The companies originally determined that there is no short term value to NEP for additional capacity. GSEC reported NEP's avoided capacity costs to be zero until the year 2000, when the next avoided unit, a gas turbine peaking unit, is projected to be needed. Exh. 5 at 5. However in response to staff's data requests, GSEC filed a revised chapter on avoided costs which real-levelized²⁽¹⁷⁾ the cost of the gas turbine peaking unit over the entire period of 1992 to 2024. *See* "Chapter 9 - Avoided Generation Costs," Staff Data Request No. SDR-36 (Replacement), Exh. 8 at 240. This raises capacity values significantly during years prior to 2000 and correspondingly lowers capacity values in 2000 and beyond. Exh. 8 at 244.

The Commission agrees with staff that it is inappropriate to value NEP's avoided short term capacity costs at zero. Even in a surplus market, capacity has some value greater than zero. An unexpected combination of outages or

a surprising change in demand can create a need for, and therefore value to, such capacity. The methodology accepted in Order No. 19,052 for calculating avoided capacity costs, applies here. There we found that "...if the utility were able to defer or cancel some future resource addition because of the availability of QF power, then the avoided costs would be based on the capital and operating costs of those avoidable utility resources." Order No. 19,052 *supra* at 22. By creating a stream of costs reflecting the value of the generation to be avoided by a QF purchase the companies have complied with Order No. 19,052, *supra*. We find that the company's revised avoided capacity costs, the avoided energy costs and the total avoided cost calculations are acceptable.

8. Overall Evaluation

GSEC's 1992 LCIP filing indicates that its planning process is adequate and meets the requirements of Order Nos. 19,052 and 19,546, *supra*. The Commission finds that GSEC presented the information in a reasonable and logical format, responding to our earlier directives and to staff concerns. We note that GSEC is the beneficiary of a well-developed and integrated resource planning process at NEES, its parent company.

C. Additional Commission Findings

In accordance with the process outlined in Order No. 19,052, the Commission finds that QFs may be able to meet some of GSEC's resource needs within the next eight years and, for the purposes of this proceeding, that the process that GSEC has established for negotiating and contracting for power purchases from QFs is adequate and consistent with Commission policy, and consistent with GSEC's integrated least cost resource plan. *See* Order No. 20,442, *supra*.

Given that GSEC receives virtually all of its power supplies from NEP, its wholesale supplier and the generation subsidiary of NEES, the role that QFs play in NEP's resource mix, and GSEC's current capacity situation, the Commission finds no need to set a megawatt amount of QF capacity that GSEC should be seeking. However, we reiterate the Commission's policy preference for QFs using renewable and indigenous fuels, including municipal solid waste, and cogeneration based on existing industrial use of fossil fuels, over technologies that increase the dependence of New Hampshire on fossil fuels. *Id.*

In addition, we note that federal legislation affecting LCIP filings was passed during the course of this investigation. After the company's initial filing but during staff's investigation, Congress passed The Energy Policy Act of 1992, (Energy Act). It is relevant to this docket in that it amends the Public Utility Regulatory Policies Act of 1978 (PURPA) to create, *inter alia*, a more detailed definition of integrated resource planning. The Energy Act defines integrated resource planning as:

s 3 (19) The term 'integrated resource planning' means, in the case of an electric utility, a planning and selection process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric

customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

PURPA Section 111(a) directs state commissions to consider each standard established by subsection (d) and make a determination on whether it is appropriate for states to implement the standard. 16 U.S.C. s 2621(a). We believe this commission already requires regulated utilities in each integrated resource plan or LCIP to

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evaluate "the full range of alternatives... in order to provide adequate and reliable service to its electric customers at the lowest system cost." We also believe that GSEC's filing meets this standard as the company considers all necessary features for system operation, Exh. 1a-c, verifies its DSM savings through process and impact evaluation studies, *Granite State Electric Conservation and Load Management*, DR 92-161, Exh. 1 at 120-192, and treats demand and supply resources on a consistent and integrated basis. Exh. 1a chs. 5 and 6.

However, because the Energy Act was passed in the middle of GSEC's LCIP docket when neither staff, the company nor potential intervenors could address its new standards explicitly, and because it is our understanding that the Energy Act provisions amending PURPA do not require state commissions to reopen completed hearings,³⁽¹⁸⁾ we will defer making a formal evaluation of GSEC's compliance with the new standards until GSEC's next LCIP filing or upon the opening of a generic investigation, if any. We direct the company to prepare its next LCIP filing with express references to the Energy Act's amendments. The company should state how its planning process meets those requirements or, if the company believes that New Hampshire should not follow a particular federal standard it should provide reasons for its position. If the Commission opens a generic investigation into the Energy Act's LCIP provisions before GSEC's next LCIP docket, the company may supply the necessary information in that context.

Our order will issue accordingly.

Concurring: March 9, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that Granite State Electric Company's resource planning process as described in its filing of April 30, 1992 and subsequent responses to data requests and testimony is accepted and approved as fulfilling the requirements of Order No. 19,052 for the biennium beginning 1992; and it is

FURTHER ORDERED, that Granite State Electric Company's long term avoided cost estimates as stated in Revised Chapter 9, Exh. 8 are approved; and it is

FURTHER ORDERED, that the company demonstrate in its next Least Cost Integrated

Resource Plan filing its compliance with the Energy Act of 1992 or state the reasons why New Hampshire should not follow a particular federal guideline, unless such an investigation is superseded by a generic docket on the Energy Act's integrated resource planning provisions.

By order of the Public Utilities Commission of New Hampshire this ninth day of March, 1993.

FOOTNOTES

¹ To determine the residential and commercial long term forecasts, NEES uses end use models. For the industrial forecast, NEES uses an econometric model. These models are flowed into a peak load model, which develops the system peak load. Tr. at 16.

² Real-levelization produces a stream of nominal payments that increase at the constant rate of inflation. The present value of the real-levelized cost stream is identical to the present value of the actual cost stream. Exh. 8 at 233.

³ See Howard, "Secret Weapon", Public Utilities Fortnightly, (January 15, 1993)

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NH.PUC*03/12/93*[75028]*78 NH PUC 142*Public Service Company of New Hampshire

[Go to End of 75028]

Re Public Service Company of New Hampshire

DSF 91-130
Order No. 20,790
78 NH PUC 142

New Hampshire Public Utilities Commission

March 12, 1993

Application of Public Service Company of New Hampshire for a Certificate of Site and Facility to Construct, Operate, and Maintain a 115 kV Electric Transmission Line from White Lake Substation, Tamworth, NH to Saco Valley Substation, Conway, NH.

BY THE COMMISSION:

MOTION FOR REHEARING REPORT

On December 15, 1992, the Site Evaluation Committee (SEC) issued a Report of its findings in this proceeding and transmitted said Report to the Public Utilities Commission (PUC) pursuant to RSA 162-F:8. The Attorney General by its appointed Public Counsel filed a Motion for Rehearing with the Site Evaluation Committee Report on February 1, 1993. The Public

Utilities Commission issued its Report and Order No. 20,739 on February 2, 1993. The SEC Report was incorporated and made part of the PUC Report and Order as Attachment A. The Applicant, Public Service Company of New Hampshire (PSNH), filed an Objection to the Motion for Rehearing on February 8, 1993. On February 22, 1993, the Public Counsel filed a further Motion for Rehearing to the Report and Order issued by the Public Utilities Commission. An Objection to the second Motion for Rehearing was filed by Public Service Company of New Hampshire on March 1, 1993. It was agreed by the parties in a letter dated February 10, 1993, stipulating that the Site Evaluation Committee and the Public Utilities Commission would address the two Motions for Rehearing by a single response.

Public Counsel, in the Motion for Rehearing, in essence asserts the following:

1. The Site Evaluation Committee failed to adequately address the potential health risks posed by the use of the proposed 115 Kv line to transmit substantial amounts of power from Maine to Beebe River, NH.

2. The Public Utilities Commission and the Site Evaluation Committee may not approve an application for a Bulk Power Facility without determining that: 1) the facility is required to meet the present and future need for electricity; 2) the facility will not unduly interfere with the orderly development of the region; and 3) the facility will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and the public health and safety.

3. The certificate issued does not impose any conditions upon the construction, operation or maintenance of the Bulk Power Facility. The Committee did not discuss whether terms should be imposed or whether the operation of the line should be limited. The refusal to give due consideration recommending the imposition of conditions or terms upon the certificate of operation constitutes legal error.

4. The Site Evaluation Committee's refusal to give due consideration recommending the imposition of conditions or terms upon the certificate of operation constitutes legal error.

5. The potential public health and safety concerns associated with exposure to magnetic fields arise from the operation of the line as a transmission line between

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Maine and Beebe River, and not from the operation of the line to meet the contingency identified as the need giving rise to the application.

6. The Site Evaluation Committee failed to fulfill its statutory mandate of protecting the public health and safety by not adequately considering imposing terms upon the certificate of operation which require further regulatory approval in the event of a changed use of the line from an open configuration to a closed configuration.

7. The Site Evaluation Committee erred in finding that the record of the proceeding does not confirm that the purpose of the proposed transmission line is to provide Public Service with back-up for its non-firm contract with Central Maine Power.

8. The finding of the Site Evaluation Committee, that no unreasonable adverse health effects will arise from the operation of the line to transmit power from Central Maine Power to Beebe River is unsupported by the record.

9. The Site Evaluation Committee erred by finding the field management techniques proposed by Public Service were sufficient to address public health concerns related to electromagnetic fields.

10. The Site Evaluation Committee applied an incorrect standard of proof.

The Site Evaluation Committee and the Public Utilities Commission have reviewed the two Motions filed by the Public Counsel and the Objections to the Motions filed by the Applicant. While several assertions raised have caused the Committee and the Commission to reexamine their analysis, no new evidence or argument was proffered that is material to the overall findings and conclusions. For that reason and the reasons set forth below, the Motions will be denied. The Site Evaluation Committee and the Public Utilities Commission will address each assertion raised, although it is believed that the Committee and the Commission have comprehensively addressed all of the issues and arguments raised, in the Site Evaluation Committee Report and in the Public Utilities Commission Report and Order. To the extent that a ground for rehearing has not been addressed herein, it is to be deemed denied.

As to paragraph 1 of the first Motion, the Site Evaluation Committee finds to be groundless the assertion that the Site Evaluation Committee failed to adequately address the potential public health risks posed by use of the proposed 115 Kv line to transmit substantial amounts of power from Maine to Beebe River, NH. The Site Evaluation Committee investigated the issue of public health by examining the testimony of Dr. Erdreich, (SEC Report pg. 6 and pgs. 14-17). On page 14 of the report the Site Evaluation Committee addressed the evidence produced, and then after considerable discussion by members of the Committee and Dr. Meehan during the public deliberations (Tr. pgs. 60 - 82), the Site Evaluation Committee concluded and found that the evidence submitted did not support a finding that unreasonable adverse effects will be produced by the proposed transmission line. The Site Evaluation Committee further found that the electromagnetic effects of the proposed line will not have an unreasonable adverse effect on the public health and safety, (SEC Report pg. 17). The record established that the Site Evaluation Committee found that the scientific evidence was insufficient to conclude that exposure to electromagnetic fields is harmful to human health. A safe or unsafe level of exposure could not be established. The Site Evaluation Committee addressed the risk assessment to be made, and stated:

The Committee does, however, have the responsibility of weighing this potential but unproven risk of cancer in the context of each individual application.

Report and Order No. 20,739 (February 2, 1993) Attachment A at 17.

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The Committee then cited, *New England Electric Transmission Corp, 67 NH PUC 910, page 926*. In that case the Site Evaluation Committee was confronted with conflicting expert testimony and the Committee addressed the necessity of making an assessment of the risk of

electric fields, as follows:

Accordingly we must undertake an assessment of the risks of unreasonable adverse health effects and make a judgment based on the record and the present imperfect state of human knowledge.

Id.

The Site Evaluation Committee then continued its analysis and stated:

Specifically the committee must consider whether or not reasonable and appropriate consideration has been given to this potential but unproven risk.

Thus the committee has examined the scientific evidence presented to it regarding the health effects of magnetic fields, the measures taken by the Applicant to minimize magnetic field levels at the edge of the right-of-way, and construction alternatives presented in the record, the aim of which is to minimize human exposure to magnetic fields. Based on the evidence the Committee finds the proposed power line does not pose an unreasonable adverse effect on public health and safety.

Id.

Paragraph 2 of the first Motion fails to assert any errors of law and merely states the statutory findings that the Site Evaluation Committee is required to make. The Site Evaluation Committee and the Public Utilities Commission disagree with any assertion that such findings were not properly made.

Paragraphs 3 and 4 of the first Motion assert that the Site Evaluation Committee refused to give due consideration to recommending the imposition of conditions or terms upon the certificate of operation or to discuss the imposition of terms or conditions on operation of the line and that this constitutes legal error. The Site Evaluation Committee disagrees. As the Site Evaluation Committee on page 17 of its report specifically stated it examined the scientific evidence presented to the Committee regarding the health effects of magnetic fields, the measures taken to minimize magnetic field levels at the edge of the right of way, and the construction alternatives presented in the record. Upon concluding that analysis, the Committee did not find a need for the imposition of conditions or terms limiting the operation of the transmission line. The Public Utilities Commission on page 17 of its Report, addresses the intervenor's request to limit the applicant's use of the line in the open mode, and concluded that:

The Commission accepts the company's position that the 1992 load projections support the need for power for present and future electrical demands in the area, and that the closed mode of operation may have to be utilized to provide the necessary reliability and stability the system requires to avoid interruption of load or in the performance of day to day operations.

Report and Order No. 20,739 (February 2, 1993) at 17,18.

In the second Motion for Rehearing, Public Counsel alleges the granting of an unconditional certificate contravenes the public interest by allowing the proposed transmission line to be used for a purpose which may have an unreasonable adverse effect upon public health and for which no present or future need has been demonstrated. The public health issue has been addressed by

the Site Evaluation Committee above.

The issue, whether present or future need had been demonstrated, was addressed by the

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Public Utilities Commission on pages 14-18. The Commission stated that:

... the 1992 load projections support the need for power for present and future electrical demands in the area, and that the closed mode of operation may have to be utilized to provide the necessary reliability and stability the system requires to avoid interruption of load or in the performance of day to day operations.

Id. at 17,18.

On pages 14-17 in the Commission's Report the Commission reviewed the evidence concerning the present need for the transmission line, the present method of serving the area, the contingencies foreseen, the existing capacity to meet the needs, the load projections, the possibility of interruptions of service, the adequacy of the Applicant's guidelines, as well as how the proposed transmission line will meet the present and future electric demands.

The Public Utilities Commission concluded that:

Based on the evidence presented, the Commission finds the proposed facility is required to meet present and future demand for electric power and will not adversely affect system stability and reliability or economic factors.

Id. at 20.

Paragraph 5 of the first Motion does not properly characterize the term, real and genuine, as used by the Site Evaluation Committee. The Site Evaluation Committee stated the Public Counsel and members of the public expressed a real and genuine concern as to the potential risks on human health and public safety. In response to that real and genuine concern of the intervenors the Site Evaluation Committee conducted a thorough examination of the potential risk on human health and public safety. The Site Evaluation Committee in its analysis did not find the potential health impacts as real and genuine as asserted by Public Counsel. The remainder of the paragraph merely indicates that the issues may have been decided differently by Public Counsel. There is no basis for determining the Site Evaluation Committee failed to adequately address the issues or made any errors of law.

Paragraph 6 of the first Motion states that the Site Evaluation Committee erred in finding the record of the proceeding does not confirm that the purpose of the proposed transmission line is to provide Public Service with back-up for its non-firm contract with Central Maine Power. On page 11 of the report the Site Evaluation Committee found that the Applicant's objective is to ensure system reliability and stability. The Site Evaluation Committee's finding was a response to the issue raised by the intervenors, that the prime purpose of the Applicant was to provide back-up power for its non-firm contract with Central Maine Power. The Committee specifically found that the Applicant's prime purpose is to ensure system reliability and stability and not to provide back-up power for its Central Maine Power contract. The Commission addressed the issue by stating:

Based on the evidence presented, the Commission finds the proposed facility is required to meet present and future demand for electric power and will not adversely affect system stability and reliability....

Id. at 20.

On pages 14-17 in the Commission Report, the Commission reviewed the evidence concerning the present need for the transmission line, the present method of serving the area, the contingencies foreseen, the existing capacity to meet the needs, the load projections, the possibility of interruptions of service, the adequacy of the Applicant's guidelines, as well as how the proposed transmission line will meet the present and future electric demands. The Commission concluded that:

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Upon careful review of all the evidence in the record the Commission finds by a preponderance of the evidence that the need for power exists.

Id. at 17.

Paragraph 7 of the first Motion questions the finding of the Site Evaluation Committee that no unreasonable adverse health effects will arise from the operation of the line to transmit power from Central Maine Power to Beebe River, and claims the finding is unsupported by the record. The Site Evaluation Committee disagrees that its finding is not supported by the record. The record contains significant testimony, evidence and discussion concerning the present state of the scientific evidence concerning the health effects of electromagnetic fields. The Site Evaluation Committee's findings are well reasoned and based on the evidence in the record.

Paragraph 8 of the first Motion asserts that the Site Evaluation Committee erred by finding that the field management techniques proposed by Public Service were sufficient to address public health concerns relating to electromagnetic fields. The record reflects that Dr. Erdreich testified that the electromagnetic fields from the line have been minimized because the engineers configured the line in a way that reduces magnetic field levels. She further testified that the electric and magnetic field levels expected to occur will not have an unreasonable adverse effect on public health (Site Evaluation Committee Report pg. 16). The Site Evaluation Committee stated:

Thus the Committee has examined the scientific evidence presented to it regarding the health effects of magnetic fields, the measures taken by the Applicant to minimize magnetic field levels at the edge of the right of way, and construction alternatives presented in the record, the aim of which is to minimize human exposure to magnetic fields. Based on the evidence the Committee finds the proposed power line does not pose an unreasonable adverse effect on public health and safety.

Id. Attachment A at 17.

The Site Evaluation Committee did not make an isolated finding as asserted in the Motion, but considered field management techniques utilized along with the other evidence presented to arrive at the Committee's findings.

The final paragraph of the first Motion, Paragraph 9, asserts that the Site Evaluation Committee applied an incorrect standard of proof. This paragraph implies that the Site Evaluation Committee found that an existence of a "convincing causal link" is necessary in order for the Site Evaluation Committee to impose conditions or terms upon the certificate which are protective of public health issues in evaluating the feasibility of alternative routes, or the use to be made or need for the proposed bulk power facility. The Site Evaluation Committee disagrees that such a finding was made. The reference was made in the Site Evaluation Committee discussion of the Swedish study (Site Evaluation Committee Report pgs. 16 & 17) and the weight to be given to the evidence presented. The Site Evaluation Committee stated:

...in the absence of a more convincing causal link between the magnetic fields and the tumors in question, the SEC believes that a moratorium on power lines is premature and unwarranted at this time.

Id. at 16.

The Site Evaluation Committee continued with its analysis and made its finding:

The SEC finds that the evidence does not support a finding that unreasonable adverse effects will be produced by the proposed transmission line. Accordingly the SEC finds that the electromagnetic effects of the proposed line will not have an unrea-

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sonable adverse effect on the public health and safety.

Id. at 17.

The Site Evaluation Committee and the Public Utilities Commission have reviewed the Motions for Rehearing and find that the Motions fail to set forth any reason for granting a rehearing or any grounds by which the Site Evaluation Committee findings or the Public Utilities Commission's Report and Order could be found to be unlawful or unreasonable. The Motion simply asserts and incorrectly concludes that the Site Evaluation Committee and the Public Utilities Commission erred with respect to their findings and rulings. All of the facts and arguments now presented were presented to the Site Evaluation Committee and the Public Utilities Commission at the hearing and were fully considered by the Site Evaluation Committee and Public Utilities Commission in their findings. The Motions do not present any new evidence or position that the Site Evaluation Committee did not consider. The movant merely would like to substitute its judgment for the judgment of the Site Evaluation Committee.

Upon consideration of all the assertions set forth by the Public Counsel, the Site Evaluation Committee and the Public Utilities Commission find that the Motions for Rehearing present no evidence or arguments which had not been fully considered in reaching the conclusion that a Certificate of Site and Facility should be issued in this matter.

The Motions for Rehearing are hereby DENIED. A Public Utility Commission Order will issue accordingly.

Dated: March 8, 1993

SITE EVALUATION COMMITTEE

ROBERT W. VARNEY, CHAIRMAN Commissioner, Dept. of Environmental Services
STEPHEN K. RICE, COMM. Dept. of Resources & Economic Development
WILBUR F. LAPAGE, DIR. Div. of Parks, Dept. of Resources and Economic Development
DR. PATRICK J. MEEHAN, DIR. Division of Public Health, Dept. of Health and Human Services
DOUGLAS L. PATCH, CHAIRMAN Public Utilities Commission
DR. DONALD A. NORMANDEAU, DIR. Fish & Game Dept.
CHARLES P. O'LEARY, COMM. Dept. of Transportation
DELBERT F. DOWNING, DIR. Water Resources Division Dept. of Environmental Services
DENNIS R. LUNDERVILLE, DIR. Air Resources Division, Dept. of Environmental Services
JOHN E. SARGENT, DIR. Division of Forests & Lands Dept. of Resources & Economic Development
JEFFREY H. TAYLOR, DIR. Office of State Planning
MICHAEL D. CANNATA, JR., CHIEF ENG., Public Utilities Comm.

ORDER

Upon consideration of the foregoing report which is made a part hereof, it is ORDERED, that the Motions for Rehearing filed by the Public Counsel in Public Service Company of New Hampshire (DSF 91-130) are hereby DENIED.
By order of the Public Utilities Commission of New Hampshire this 12th day of March, 1993.

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NH.PUC*03/15/93*[75029]*78 NH PUC 148*North Country Water Supply, Inc.

[Go to End of 75029]

Re North Country Water Supply, Inc.

DE 92-076
Order No. 20,791
78 NH PUC 148

New Hampshire Public Utilities Commission

March 15, 1993

Order to Show Cause Why Utility Should Not Be Fined for Failure to Comply with Commission Orders.

BY THE COMMISSION:

ORDER

On November 23, 1992 this Commission issued Order No. 20,677 granting North Country Water Supply, Inc. ("North Country") a water utility franchise in the Town of Strafford, and setting a temporary rate of \$25.55 per month to its 31 customers; and

WHEREAS, the procedural schedule for the completion of the permanent rate proceeding has twice required revision; and

WHEREAS, North Country failed to file its testimony and exhibits for its permanent rate by the agreed date of February 5, 1993; and

WHEREAS, this Commission received a memorandum from Staff dated February 12, 1993 recommending a \$500 fine be levied against North Country for failure to follow Commission orders with respect to established procedural schedules; and

WHEREAS, at its public meeting on February 16, 1993, this Commission directed the Executive Director and Secretary to advise North Country that unless its filing, along with outstanding data requests from Staff, is filed on or before February 26, 1993 the Commission would grant Staff's recommendation regarding sanctions; and

WHEREAS, North Country's filing was not received on or before February 26, 1993; it is hereby

ORDERED, that North Country Water Supply, Inc. appear before the New Hampshire Public Utilities Commission at its offices at 8 Old Suncook Road, Concord, New Hampshire at 10:00 a.m. on April 13, 1993 to show cause why the utility should not be fined \$500 and/or have its docket dismissed for failure to file its permanent rate request in a timely manner and in compliance with previously approved procedural schedules; and it is

FURTHER ORDERED, that the proposed \$500 fine is suspended until said show cause hearing is held; and it is

FURTHER ORDERED, in order to avoid the penalties cited above, North Country shall appear at the hearing with the following items:

- 1) Filing requirements according to NH Admin. Rules Part PUC 1603.03(b), or requests for waivers therefrom;
- 2) North Country's request for rate base, including documentation of new plant assets or improvements installed and providing service to customers since acquisition of the system; and
- 3) The permanent rate North Country is requesting, including any necessary documentation or calculations to illustrate the development of the permanent rate.

By order of the New Hampshire Public Utilities Commission this fifteenth day of March, 1993.

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NH.PUC*03/15/93*[75030]*78 NH PUC 149*EnergyNorth Natural Gas, Inc.

[Go to End of 75030]

Re EnergyNorth Natural Gas, Inc.

DR 93-030
Order No. 20,792
78 NH PUC 149

New Hampshire Public Utilities Commission

March 15, 1993

Suspension Order and Establishment of Prehearing Conference.

BY THE COMMISSION:

ORDER

On February 19, 1993, EnergyNorth Natural Gas, Inc. [EnergyNorth or the Company] filed with the New Hampshire Public Utilities Commission [Commission] a new tariff page regarding the provision of Natural Gas Vehicle [NGV] Service, with a proposed effective date of April 1, 1993; and

WHEREAS, there are numerous policy issues still being formulated and defined regarding NGV service; and

WHEREAS, Staff requires additional time to investigate whether or not the new tariff filing is in the public good; it is hereby

ORDERED, that NHPUC No. 1, EnergyNorth Natural Gas, Inc., Original Page 11, Supplement No. 1, be and hereby is suspended; and it is

FURTHER ORDERED, that a prehearing conference to address the procedural matters governing the pendency of this proceeding and to determine an interim set of rates, be held before the Public Utilities Commission at its offices at 8 Old Suncook Road, Building #1, Concord, New Hampshire at 1:30 p.m. on the thirteenth day of April, 1993; and it is

FURTHER ORDERED, that pursuant to New Hampshire Administrative Rules PUC 203.01, that the petitioner notify all persons desiring to be heard and that they should appear at the said hearing where they may be heard on the question of whether the new tariff filing is in the public good, by causing an attested copy of this order to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed; such publication to be no later than March 30, 1993; and it is

FURTHER ORDERED, that notification of this Order be given to Northern Utilities, Inc. by EnergyNorth Natural Gas, Inc. via first class mail no later than March 30, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 541-a: 17, and PUC 203.202, any party seeking to intervene in the proceeding must submit a motion to intervene with a copy to the

petitioner, at least three [3] days prior to the hearing.

By order of the New Hampshire Public Utilities Commission this fifteenth day of March, 1993.

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NH.PUC*03/23/93*[75031]*— NH PUC —*EnergyNorth Natural Gas, Inc.

[Go to End of 75031]

Re EnergyNorth Natural Gas, Inc.

DR 91-212
Order No. 20-793
— NH PUC —

New Hampshire Public Utilities Commission
March 23, 1993

Revisions to Report and Order No. 20,776.

[THE FOLLOWING CASE WAS NOT PUBLISHED IN NEW HAMPSHIRE VOLUME 78.]
BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on March 1, 1993, the Commission issued Report and Order No. 20,776 addressing the petition of EnergyNorth Natural Gas, Inc. (EnergyNorth) to increase rates; and

WHEREAS, the Commission has determined that certain schedules contained therein were inconsistent with our written order; and

WHEREAS, an issue pertaining to legal expenses set forth in the positions of the parties and staff was not addressed; it is hereby

ORDERED, that the revised pages to Report and Order No. 20,776 attached hereto supersede the corresponding pages of the March 1, 1993 Report and Order; and it is

FURTHER ORDERED, that EnergyNorth file compliance tariffs within seven days of this revision consistent with the revenue increase reflected in the revised pages of the report; and it is

FURTHER ORDERED that, for purposes of appeal, EnergyNorth has until 20 days after the date of this revision to pursue its rights to rehearing.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of March, 1993.

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NH.PUC*03/23/93*[75032]*78 NH PUC 149*Public Service Company of New Hampshire

[Go to End of 75032]

Re Public Service Company of New Hampshire

DR 92-050
 DR 92-165
 Order No. 20,794
 78 NH PUC 149

New Hampshire Public Utilities Commission

March 23, 1993

Report Approving in Part and Denying in Part Fuel and Purchased Power Adjustment Clauses Charges.

Appearances: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Robert P. Knickerbocker, Jr., Esq. (Pro Hac Vice) and Gerald Garfield, Esq. (Pro Hac Vice) of Day, Berry, and Howard for Northeast Utilities Service Company; Michael W. Holmes, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; James T. Rodier, Esq. on behalf of the Commission Staff.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On April 1, 1992, in Docket No. DR 92-050, Public Service Company of New Hampshire (PSNH) filed with the New Hampshire Public Utilities Commission (Commission) its proposal for a Fuel and Purchased Power Adjustment Clause (FPPAC) rate of 0.00 cents per kilowatt-hour for the period from June 1, 1992, through November 30, 1992. Hearings were held May 6 through May 8, 1992. At the close of those hearings, the parties agreed to defer certain Seabrook outage issues until the next FPPAC proceeding.

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The Commission determined that it was not persuaded by PSNH's arguments that the savings from any pre-merger swaps or sales be shared on an equal 50/50 basis between PSNH and Northeast Utilities Service Company (NU) and therefore ordered that additional evidence be presented on the NU/PSNH swap transactions. Report and Order No. 20,503 (June 5, 1992).

On September 25, 1992, in Docket No. DR 92-165, PSNH filed its proposed FPPAC rate of 0.274 cents per kilowatt-hour for the period from December 1, 1992, through May 31, 1993. PSNH also filed data for the Reconciliation Period from June 1, 1992, to October 31, 1992.

Supplemental hearings in Docket No. DR 92-050 and hearings in Docket No. DR 92-165 were consolidated and held on November 9, 10 and 12, 1992. Mr. Drawbridge presented additional evidence on the deferred Seabrook outage issues in DR 92-050. Mr. Sabatino of NU

presented information on the NU/PSNH swap transactions through pre- filed supplemental written testimony dated September 4, 1992, and was cross-examined on that information on November 9 and 10, 1992.

At the close of the consolidated hearings, PSNH, Staff and the Office of the Consumer Advocate (OCA) engaged in settlement discussions and, as a result, filed Joint Recommendations for separate Commission Orders in DR 92-050 and DR 92-165 on November 25, 1992, attached hereto as Attachments A and B, respectively. To be effective, both sets of Joint Recommendations require Commission approval.

In DR 92-050, the parties and Staff agreed to brief the energy efficiency issue, and to narrow the areas of disagreement relating to the NU/PSNH swap transactions and Seabrook Station outages. The parties and Staff submitted initial briefs on the energy efficiency issue on December 15, 1992; reply briefs were submitted on December 22, 1992.

In DR 92-165, Staff and the parties agreed that certain issues were no longer contested because the parties agreed in the Joint Recommendations to resolve those issues; that certain issues could be deferred to a later proceeding; and that PSNH would submit a statement of position regarding the Commission's jurisdictional authority to disallow recovery of PSNH's replacement power costs for Seabrook outages due to imprudence . The Commission approved a temporary FPPAC rate of 0.274 cents per kilowatt-hour. Report and Order No. 20,691 (December 1, 1992).

II. POSITIONS OF THE PARTIES AND STAFF

A. DR 92-050

As noted *supra*, the parties and Staff narrowed the contested issues in this proceeding to energy efficiency issues. The parties and Staff agreed upon the proposed resolutions of the issues related to the NU/PSNH swap transactions and disallowances for outages at Seabrook Station.

1. Issues Addressed by the Joint Recommendations

a. *NU/PSNH Swap Transactions*

The parties and Staff attempted, but were unable, to reconcile in principle their respective positions on the NU/PSNH Capacity Swaps. For the purposes of settlement and, in the case of PSNH, without admission of imprudence or wrongdoing, the parties jointly recommended a disallowance related to the swaps of \$250,000.

The Staff maintains that PSNH did not heed the Commission's directive in Docket No. DR 91-011 with respect to demonstrating that its transactions with NU were optimal and that it aggressively sought the best possible market for PSNH's surplus energy. Staff acknowledges, however, that the new information presented by PSNH with respect to NU's partially unwritten agreement with the State that the swap savings were to be shared on a 50/50 basis and that NU and PSNH were to deal first with each other rather than third parties substantially changed Staff's view of the merits of PSNH's case. Staff also now believes that it is probable there was no economic harm to

PSNH's customers as a result of the swap transactions, considering the new information provided by NU on prevailing market conditions. Staff continues to believe that PSNH did not comply with the Commission's directive, Report and Order No. 20,275 (October 25, 1991) that PSNH should keep its customers' interests first at all times and obtain the maximum benefits possible.

PSNH disagrees with Staff's contention that it did not comply with the Commission's order, and believes that substantial evidence demonstrates that PSNH always had its customers' interests in mind. Assuming that PSNH did not heed the Commission's order, PSNH believes it has proven that not only was there no economic harm, but that customers benefited more from the swap transactions than they would have had PSNH dealt with other parties prior to dealing with NU. PSNH also believes that the 50/50 sharing was required by its agreement with the State and by the Rate Agreement. PSNH states that NU would never have agreed to take less than half of the swap savings because it was a buyers' market and, therefore, NU could have done as well or better by dealing with other energy sellers.

In view of these divergent positions, the parties and Staff agreed that a \$250,000 disallowance for the purpose of settlement was reasonable. According to the Joint Recommendations, this represents a final and permanent settlement of all issues related to the swaps, whether or not expressly raised in this proceeding. The one exception to this settlement is the question of swaps that may have been affected by the May and June, 1992, transactions with the New York Power Authority. Resolution of the New York Power Authority transactions are deferred as an issue to the next FPPAC proceeding in Paragraph H of the Joint Recommendations in Docket No. DR 92- 165, *infra*.

b. Seabrook Outages during the Reconciliation Period Involving New Hampshire Yankee Management

Staff testified that the Commission could disallow recovery of \$454,500 in replacement power costs for outages at Seabrook Station described in Outage and Power Reduction Reports (OPRR) 14, 15, and 20, but did not recommend any actual disallowances because of subjective factors. PSNH does not agree that these outages were the result of management imprudence or that disallowances would have been appropriate for these outages. The parties and Staff recommend that no disallowances be made in this docket for Seabrook outages.

c. Seabrook Station Outages during the Reconciliation Period Caused by Third Parties

The Commission, in Docket No. DR 91-011, held that it was inappropriate at that time to allocate replacement power costs related to outages at Seabrook Station caused by manufacturing defects or negligence of third parties to PSNH's investors in the absence of imprudence on the part of Seabrook's management. Staff has not recommended disallowances for any of the outages caused by third parties in either this proceeding or in Docket No. DR 92-165, in part because New Hampshire Yankee and North Atlantic Energy Service Corporation (North Atlantic) personnel have taken appropriate action to pursue claims against third parties whenever practically possible.

By taking this position, Staff does not forego its right to recommend disallowances for outages caused by manufacturing defects or third party negligence in future proceedings, under appropriate circumstances.

2. Energy Efficiency Issue

The energy efficiency issue is the one remaining contested issue in this proceeding.

a. *Position of Staff*

Staff addressed an issue it identified as "business practices related to energy loss reductions." Exh. 29 at 28. Mr. Cannata, Chief Engineer, testified that an energy reduction project is a project which "one would do solely to reduce energy losses." Tr. May 12, 1992, at

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65. He provided the following everyday example of an energy reduction project:

Suppose you had a facility like a hydroelectric generator that's been on the system for 30 or 40 years that has a generator step-up transformer, that transformer may be very high in losses. With today's manufacturing technology, it may be possible to purchase a new transformer and have that cost of purchasing the transformer mitigated by reduction in losses.

Id.

Mr. Cannata explained the relevance of this issue to this proceeding in that "the savings or loss reductions would show themselves in FPPAC as a reduction in costs to customers.... [W]e're talking here about making capital expenditures in lieu of incurring higher energy losses, which have an upward pressure on FPPAC...." *Id.* at 66. Moreover,

[t]he Rate Agreement sets up a negative incentive from the ratepayer perspective for the company to invest in projects which chiefly produce energy savings through loss reduction. That incentive is negative because money spent is considered part of the fixed 5.5% rate increase while the savings generated by that investment flow directly to ratepayers via the FPPAC mechanism. ... [O]ne finds that projects with paybacks of 4 or 5 years generate sufficient cash to cover the carrying costs of the project. These projects still exhibit a healthy benefit cost ratio of approximately two. This reinforces our earlier point. The energy reduction project may be a good one financially, but the company does not recover its money under the Rate Plan.

Exh. 29 at 29.

On direct examination, Staff distinguished between energy reduction projects and conservation measures:

Conservation is implemented [on the customer's side of the meter] through direct company contact with individual customers as are load management projects. Energy reduction projects as we refer to them here are done [on the company's side of the meter] because the company has an obligation to conduct its business in an overall responsible fashion.

Id. at 31.

Mr. Cannata concluded that a well run utility should undertake energy loss reduction projects with paybacks in the range of 4 to 5 years since the value of the energy savings would cover the

utility's carrying costs, *Id.* at 32-33. This is in sharp contrast to the position of PSNH that it is willing to undertake projects only in the one-year payback range. Tr. May 12, 1992, at 67. Mr. Cannata stated that the New England Electric System companies implement projects with up to a five- year payback. *Id.* at 81. PSNH is interested in a one- or two-year payback and consequently ignores everything that happens after the first or second year when, in fact, the benefits may be very great. *Id.* at 82-83.

b. *Position of the Parties*

1. *NU/PSNH*

Mr. Noyes, Vice President and Comptroller for NU and its affiliates, testified on behalf of PSNH. He conceded that PSNH is an investment grade utility. Tr. May 7, 1992, at 64. Mr. Noyes also agreed that, during the Commission's review of the Rate Agreement in DR 89-244, NU presented, and the Commission considered, pro- formed schedules that showed construction budgets sufficient for PSNH to

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provide safe, reliable and adequate service during the fixed rate period. *Id.* at 77-78. Additionally, an expectation was created that construction expenditures would be made in accordance with typically good utility management and business principles. *Id.* at 81-82.

Notwithstanding these representations, Mr. Noyes made it clear that PSNH is not spending at the level that it had originally assumed primarily because of the difference in load growth. Expenditures for new customers and lines and transformers to service those customers therefore have not had to be made because the load growth did not materialize. *Id.* at 65-66.

Mr. Noyes contended that it was clear under the Rate Agreement that shareholders, not ratepayers, would take the risk of fall off in load growth. *Id.* He also contended that it was apparent, or should have been apparent, during DR 89-244 that PSNH would not spend the amount of construction expenditures in the pro forma budgets (i.e., the "referenced assumptions") if anticipated load growth did not materialize. *Id.*

Mr. Noyes contended that PSNH's resources are clearly capped under the Rate Agreement and, because the revenues are limited, PSNH must utilize the revenues they have the best they can. PSNH goes through an extensive budgeting process that prioritizes needs for capital and funds projects on a priority basis up to available resources. *Id.* at 66.

Because of low load growth, PSNH does not have the financial resources to do some of the things that would be nice to do and that would have paybacks in the four- to five-year range. *Id.* at 80. PSNH is not accountable to the Commission for the individual decisions it makes in prioritizing the use of its resources. *Id.* at 66. Nonetheless, if the Commission were lawfully able to order PSNH to undertake a particular energy enhancing project, the Rate Agreement (Section 5(a)(v)(C), "to provide revenues to accomplish programs mandated for stand alone PSNH or NUNH by legislators or regulators") would provide for the necessary increase in rates to pay for it. *Id.* at 67.

According to Mr. Noyes, the energy efficiency issue was raised by Staff during the hearings held in DR 89-244 on the NU/PSNH merger. It was NU/PSNH's position that the company must

manage within the resources that it had and if the Commission were to order additional projects done, they would fall under Section 5(a)(v)(C). *Id.* at 68-69.

The Staff and parties ultimately resolved the issue through negotiation. The Joint Recommendations, dated June 22, 1990, Paragraph 6(ii) states:

[T]hat we both realized that there may be situations where, because of the operation of the Rate Agreement there would be an incentive not to do something because it would cause harm to the shareholders and benefits to the ratepayers, or the other way around, and the stipulation or recommendation is that, when we had such an event, we would work together to come up with a recovery mechanism to keep both sides harmless and allow the best overall business decision to take place.

Id. at 70.

The Newington Gas Conversion is an example of how such a cooperative negotiation process was employed to get the project done. *Id.* at 71.

B. DR 92-165

The parties and Staff agreed on proposed resolutions to most of the issues which arose during the proceeding. Other than the deferred issues discussed *infra*, there are no issues in dispute to be briefed at this time.

On December 15, 1992, PSNH submitted its position in writing, concerning the Commission's jurisdictional authority post-merger to disallow recovery of PSNH's replacement power costs for Seabrook outages due to imprudence. This issue is not timely since Staff is not recommending a disallowance.

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1. Issues Resolved by Joint Recommendations

a. *Trigger Mechanism*

The parties and Staff recommend that the proposal, provided by PSNH in its pre-filed testimony, be accepted by the Commission.

b. *Newington Gas Conversion, Savings from Test Generation*

The parties and Staff recommend that PSNH's proposed treatment of the savings from test generation on natural gas be accepted by the Commission.

c. *Energy Penalty from Newington Sale to Central Vermont Public Service*

The parties and Staff recommend that PSNH's recommendation to reduce FPPAC costs by an additional \$355,661 to reflect the full energy penalty on a "post NU/PSNH swap basis" be accepted by the Commission.

d. *Interpretation of Paragraph B.K. Deferrals*

The parties and Staff recommend that PSNH's proposal to use actual data to adjust retroactively Paragraph B.K. deferrals as necessary to meet the objective of a 0.00 cents per kilowatt-hour FPPAC rate to the extent possible before applying any actual overrecovery or

underrecovery to the next FPPAC period, as long as PSNH applies this interpretation in a consistent manner, be accepted by the Commission.

e. Application of Small Power Producer (SPP) Settlement in "Creep" Docket

The parties and Staff recommend that PSNH's method for accounting for the SPP Settlement amounts be accepted by the Commission.

f. Reserve Shutdowns at Merrimack Unit II

The parties and Staff recommend that no disallowance related to the forced outages which followed the weekend reserve shutdowns of Merrimack Unit II be found.

g. BECO Swap Disallowance

The parties and Staff recommend that the disallowance for the BECO swap be reduced from \$900,000 to \$139,500. This amount evenly splits the difference between PSNH's recommended disallowance of \$44,000 and the \$235,000 disallowance the Staff would have recommended. The \$44,000 amount was calculated in accordance with the methodology described in the Commission's order in Docket No. DR 92-050. The \$235,000 amount was what PSNH would have calculated had it done the calculation at the time of the hearings in Docket No. DR 92-050.

2. Issues to be Deferred to Next FPPAC Proceeding

The parties and Staff recommend that the following issues be deferred for consideration in the next FPPAC proceeding, subject to the conditions described below:

a. Connecticut Yankee Thermal Shield Outage

PSNH and NU will continue to keep Staff and OCA informed of developments in the Connecticut proceeding that, as of this date, indicate that there may be a disallowance due to this outage at Connecticut Yankee. Copies of the Connecticut Department of Public Utility Control's final decision and any appeals therefrom will be furnished by PSNH to Staff and the parties.

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b. Seabrook Operation and Maintenance Costs

Staff and OCA reserve the right during the next FPPAC proceeding to make further inquiry into the items supplied in Response to Staff Follow Up Request No. 21. These items include regulatory expense, legal expense, lobbying expense, costs for consultants, and advertising expense.

c. Power Transactions Between PSNH, NU Initial System, and the N.Y. Power Authority

Transactions in May and June, 1992, described in Mr. Sabatino's testimony will be deferred for briefing until the next FPPAC proceeding. Staff and OCA reserve the right to address the concerns raised in Staff's rebuttal testimony, namely: the distinction between energy and capacity sales; whether system power sales are allowed under the Sharing Agreement; Condition 5 in Connecticut and its impact on New Hampshire customers; and the capacity sale to the New York Power Authority (NYPA) in May and June, 1992, and its impact on NU/PSNH swap savings.

III. COMMISSION ANALYSIS

A. DR 92-050

As we have noted *supra*, the parties and Staff have narrowed the contested issues in this proceeding to the energy efficiency issue. We will first address the issues for which the parties and Staff have proposed resolutions and then turn to the contested matter regarding energy efficiency.

1. Issues Resolved by the Joint Recommendations

We have reviewed the record in this proceeding and find that the Joint Recommendations of the parties and Staff regarding certain previously contested issues in this proceeding are just and reasonable. Accordingly, we will accept and approve those recommendations. We will require PSNH to reduce its energy costs to reflect the \$250,000 disallowance related to the resolution of the NU/PSNH swap issues. While we remain concerned over PSNH's handling of the swap issues, given the admonitions we expressed in earlier proceedings, the new information presented in the supplemental hearings regarding the unwritten agreement with the State negotiating team pertaining to pre-merger sharing of savings substantially tempers our view of the merits of PSNH's position.

We note that these disputes over the handling of the swaps will not recur because PSNH and NU have been operating under joint dispatch in accordance with the terms of the Sharing Agreement since the merger was consummated on June 5, 1992.

Even though PSNH appears to be culpable with regard to certain outages at Seabrook Station described in OPRR's 14, 15, and 20, the potential replacement power costs associated with those outages is substantially outweighed by the excellent operating record and level of plant availability experienced during the Reconciliation Period, as well as the fact that ratepayers have benefited from the use of salvaged parts from Seabrook Unit 2 which were not ratebased.

We noted that during the course of the proceeding, North Atlantic indicated that it was continuously addressing steam pipe wall erosion and corrosion with the aid of a state-of-the-art computer program developed by the Electric Power Research Institute (EPRI) to minimize potential costly outages. It appears that EPRI membership is realizing significant benefits to PSNH customers. We emphasize again that the operation of Seabrook Station is the single most important operating event in the determination of customer bills.

We turn to consider the outages experienced at Seabrook during the Reconciliation Period. The uncontroverted evidence indicates that these outages were attributable to independent contractors or defective parts. Therefore, we agree with Staff and the parties that there is

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no basis at this time for the Commission to revisit our earlier rulings in this area. The evidence shows that North Atlantic is taking appropriate and vigilant action to pursue claims against third parties and will credit to ratepayers any and all funds obtained as a result of these efforts. The Commission expects to receive reports in each FPPAC proceeding regarding the progress of these efforts, and is prepared to issue appropriate protective orders to protect North Atlantic's confidential information..

Upon review of the record, we find that the Operation & Maintenance budgets of North Atlantic are sufficient for proper plant operation and that sound management judgements have been made in these areas.

Staff proffered in its testimony that the first refueling cycle ends when the plant returns to service at the end of the first refueling on October 16, 1991. We agree. Further, we acknowledge that completion of the first refueling does not constitute the end of the learning curve as some components will not be maintained or otherwise worked on for up to ten years.

We now turn to the principle contested issue in this proceeding.

2. Energy Efficiency Issue

We have reviewed the extensive record in this proceeding and have carefully considered the initial and reply briefs of Staff and the parties. We have also considered the potential relevance of the Energy Policy Act of 1992.

There appear to be three interrelated, subsidiary issues that need to be resolved by the Commission: (1) to what standard should PSNH management be held in determining which energy efficiency projects get funded and implemented; (2) have PSNH stockholders accepted the risk of a continuing obligation to implement energy efficiency projects with paybacks of up to four to five years even if load growth turned out to be lower than expected and should the Commission determine that PSNH should undertake such projects; and (3) is PSNH then entitled to rate relief or cost recovery under Section 5 of the Rate Agreement for these projects.

We make the following rulings regarding the appropriate energy efficiency standards to be observed by PSNH:

1. PSNH is obligated under the Rate Agreement to provide service in accordance with good utility practices and business principles and, therefore, should be implementing energy efficiency projects with paybacks of up to four to five years.

It should be emphasized here that we recognize the requirement that PSNH must make a trade off between available capital and projects when capital is limited. We also recognize that projects with paybacks in excess of five years may also be economic. We are therefore finding that PSNH must do only the more economic energy efficiency projects which may exist;

2. PSNH should bear the burden and risk of this obligation even though sales and revenues are lower than expected because the Rate Agreement unconditionally allocated to NU/PSNH stockholders the risk of lower sales growth;

3. As noted above in section 1, good utility practice requires implementation of energy efficiency projects of up to four to five years. PSNH, therefore, is not entitled to rate relief under Section 5(v) of the Rate Agreement since implementation of energy efficiency measures does not involve any "generic legislative or regulatory change" or any "new" program being mandated for PSNH.

We now turn to our analysis on each of the foregoing issues and rulings.

A. PSNH Should be Required to Implement Energy Efficiency Projects with Paybacks up to Four to Five Years

PSNH did not challenge Mr. Cannata's expert testimony that a well run utility should undertake energy efficiency projects in the range of four to five years since the value of the savings typically covers the utility's carrying costs. See Exh. 31, "Payback Tables." In contrast, PSNH maintains that it should only have to undertake energy efficiency projects with paybacks in the range of one year since PSNH's revenues under the Rate Agreement

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are less than those originally forecast at the time of the Commission's approval of the Rate Agreement due to lower than anticipated load growth. PSNH believes that it should have been apparent to the Commission during its examination of the Rate Agreement in DR 89-244 that PSNH would not spend the amount of construction expenditures in the pro forma budgets if anticipated load growth did not materialize, even though it contended stockholders, not ratepayers, took the risk of lower load growth.

There is nothing in the record of this proceeding that contradicts Staff's position that a well run utility should undertake energy efficiency projects with paybacks in the four to five year range as a matter of good utility practice. Thus, the Commission's resolution of this issue turns on its understanding of what level of service and system investment PSNH is obligated to undertake under the Rate Agreement.

In its approval of the Rate Agreement, the Commission found that:

NU has demonstrated its capability of management consistent with the standards and requirements of the state and federal regulatory process to provide electric service without the intervention of financial impairment of its operations.

[T]he reorganization proposal in the Joint Plan and Rate Agreement will result in just and reasonable rates that equitably balance the interest of ratepayers and investors, will fairly resolve the PSNH bankruptcy and will establish a workable system for providing reliable electric service.

Northeast Utilities/Public Service Company of New Hampshire, 114 PUR4th 385 at 460. (1990)

The Commission clearly based its approval of the Rate Agreement on its belief that PSNH's acquisition by NU would restore "business as usual" to New Hampshire and its largest electric utility after years of turmoil. We found that:

NU states that the Rate Agreement provides substantial non-rate benefits to ratepayers and the State of New Hampshire which are further reasons to determine that its implementation is consistent with the public good. These benefits include the strength of NU management, the application of NU's expertise to foster the safe and economical operation of Seabrook, assured capacity resources over the next two decades at embedded cost and the establishment of financially viable electric utilities to serve New Hampshire reliably and without the risk of another bankruptcy. The viability is indicated by the financial ratios, the evidence that the reorganization financing will be successful and the reasonableness of NU's sales forecasts.

Id. at 398.

As noted *supra*, Mr. Noyes conceded that an expectation was created during the proceedings in DR 89-244 that during the Fixed Rate Period construction expenditures would be made in accordance with good utility management and business principles.

Consequently, we hold that PSNH has created a strong expectation upon which the Commission relied and, thus, obligated itself under the Rate Agreement and plan of reorganization to provide electric service in accordance with typical utility standards as a viable and reliable entity.

Our decision does not turn on the question of whether the construction budgets for PSNH submitted by NU in DR 89-244 actually contained funds for energy efficiency projects with paybacks greater than one year. Nor do we find that PSNH's financial indicators are determinative of whether PSNH operates in accordance with accepted industry standards. PSNH's representations in DR 89- 244 now carry with it an

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obligation for PSNH to manage itself in accordance with accepted industry standards such as implementing projects with paybacks of up to four to five years.

B. PSNH Has a Continuing Obligation to Implement Energy Efficiency Projects Even Though Load Growth, and, Therefore, Revenues are Lower than Expected Because Shareholders Took Risk Under the Rate Agreement

The next issue to be resolved is whether PSNH is entitled to manage its operations to a substantially lower standard (i.e., one year paybacks) because its sales and revenues are materially lower than those contained in the "reference assumptions" contained in the financial scenarios put before the Commission during DR 89-244.

An examination of the record in DR 89-244 makes it clear and compelling that this should not be the case. In its analysis of the plan of reorganization and the Rate Agreement, the Commission noted that:

Staff expressed the concern that the uncertainties in NU's sales forecasts for PSNH all work in the direction of leading to an overestimation of sales rather than counterbalancing each other.

An overly optimistic sales forecast could threaten the financial viability of the Rate Plan and lead to additional rate increases for customers.

NU responded by arguing that it has established the reasonableness of its sales forecasts and points out that "NU and its investors not New Hampshire ratepayers, bear the risk of optimistic sales projections over the Fixed Rate Period...."

Id. at 423.

NU argues that the reverse should hold true, that New Hampshire ratepayers should take the risk and suffer the consequences of lower load growth rather than NU shareholders, as promised.

The only argument offered by Mr. Noyes in support of this apparent reversal of position is that this should have been apparent to the Commission, even though NU never made it explicit.

We hold that NU's contention must be rejected by the Commission since the Commission's own analysis of the Rate Agreement discussed *supra* and Mr. Noyes's own responses make it clear that NU shareholders, not PSNH ratepayers should suffer all of the consequences of lower load growth.

C. PSNH is Not Entitled to Rate Relief Under Section 5 of the Rate Agreement

We now turn to the apparent "fallback" contention of PSNH which seems to be that if it must undertake efficiency projects in the range of four to five years in accordance with accepted electric utility industry standards, and even if shareholders must conceptually shoulder this burden in accordance with the Rate Agreement even though load growth is lower than anticipated, it nevertheless is entitled to rate relief under the Rate Agreement, specifically Section 5(a)(v)(C).

By way of background, PSNH summarized the operation of Section 5 of the Rate Agreement as follows:

Other Base Rate Changes. No increases or decrease in base retail rates other than the seven 5.5% increases will be granted to the Company during the Fixed Rate Period, except for changes to rates caused by the operation of the Equity Collar, and except to adjust for legislative and regulatory changes, including changes in environmental laws or regulations requiring a minimum capital expenditure of \$20 million or having a mini-

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mum annual expense of 2 million [Section 5(a)(v)(A)] to reflect changes to the Company's Seabrook decommissioning obligations, to provide revenues to accomplish programs mandated for the company by legislators or regulators [Section 5(a)(v)(C)], or to recover costs associated with conservation and load management programs undertaken with the specific approval of the NHPUC.

PSNH FORM 10-K (For the fiscal year ended December 31, 1991) at 4. (Emphasis supplied.)

We do not find that the general standards pertaining to energy efficiency projects which we set out and adopt herein require that PSNH spend a substantial sum of money. Indeed, the record indicates that there may not be any energy efficiency projects in the four to five year payback range. Nevertheless, it appears that the concern expressed by Staff in DR 89-244 that PSNH might resist funding new projects that benefit customers until ordered to do so by the Commission, thereby triggering the rate recovery provisions of Section 5(a)(v)(C) of the Rate Agreement has now materialized. In this connection, we note with interest the PSNH Reply Brief:

If Staff prevails on this issue and the Commission orders PSNH to expand the number of projects that are funded, PSNH will have the Commission order that it needs to trigger its right to a base rate increase to recover the investment in such projects under Section 5(a)(v)(C) of the Rate Agreement.

PSNH Reply Brief at 8.

We disagree with this position. It is readily apparent that Section 5(a)(v)(A) of the Rate Agreement is applicable only in the event of "legislative and regulatory changes" and Section 5(a)(v)(C) of the Rate Agreement is applicable only to "programs mandated for the Company by legislators or regulators."

In its analysis of the Rate Agreement, the Commission explained how these critically important sections of the Rate Agreement are intended to work based upon its review of the entire record in DR 89-244 and the Joint Recommendation referred to by Mr. Noyes at Paragraph 6(ii):

We will also understate our understanding of the Rate Agreement that the types of costs recoverable under Section 5(a)(v)(A) and Section 5(a)(v)(C) are mutually exclusive. For example a capital expenditure of less than \$20 million selected by PSNH as its least cost option in response to a generic legislative or regulatory change would clearly not be recoverable under Section 5(a)(v)(A) and would also not be eligible for recovery under Section 5(a)(v)(C). The types of costs recoverable under Section 5(a)(v)(C) would be only those associated with new programs specifically mandated for PSNH hereafter.

Northeast Utilities/Public Service Company of New Hampshire, 114 PUR4th 385 at 420, 421, (July 20, 1990).

Consistent with the Commission's own analysis of the Rate Agreement, Paragraph 6(ii) is clearly subordinate to and subject to Sections 5(a)(v)(A) and (C) of the Rate Agreement, not an escape clause as argued by PSNH. Further, the costs of energy efficiency projects with paybacks of up to four to five years representing good utility practice would not be recoverable under either section of the Rate Agreement cited by PSNH since they would neither be implemented pursuant to a "generic legislative or regulatory change" nor pursuant to "new programs specifically mandated for PSNH" after the date of the Commission's approval of the Rate Agreement.

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D. Energy Act of 1992

By letter dated February 5, 1993, PSNH submitted a statement regarding a provision of the recently enacted Energy Policy Act of 1992 which amends federal law by adding to the Public Utilities Act of 1978 (PURPA) a new standard [Section 111(d)(9)] for energy efficiency investments. This new federal standard appears to be related to the energy efficiency issue in this proceeding.

In its submittal, PSNH suggests that either arguments be reopened or the Commission defer acting on the energy efficiency issue until the PURPA proceeding under Sections 111(d)(9) and Section 112(b) is conducted. Section 111(d)(9), as correctly noted by PSNH, would, if adopted by the Commission, require that electric utility rates be developed and designed so as to encourage, and not discourage, all cost effective improvements in the energy efficiency of utility power generation and supply facilities.

It is important to recognize that, in the Commission's view, the core issue in this proceeding is simply whether PSNH is obligated under the Rate Agreement to provide service in accordance with good utility management and business principles; that is, to implement energy efficiency projects with paybacks up to five years, even though sales and revenues are lower than it expected, and even though NU/PSNH admits and concedes it knowingly and unconditionally assumed the risk of lower sales growth under the Rate Agreement.

Presently, utilities in general, and PSNH in particular have no incentive to undertake energy efficiency investments because the losses which result from inefficient equipment are fully recovered through automatic adjustment clauses, such as FPPAC, while investments and non-fuel expenditures related to efficiency improvement are recovered through base rates. This is unquestionably a powerful disincentive to energy efficiency.

As a matter of federal law, the framework of PURPA is such that the Commission need only consider and determine whether it is appropriate to implement such a standard, and, to the extent consistent with otherwise applicable State law, the Commission may actually decline to implement such a standard. As illustrated *supra*, even if the new standard is eventually found to be appropriate by the Commission, the particular manner of implementation selected by the Commission may well be viewed by PSNH as adverse to the interest of its stockholders.

In view of the foregoing, we believe it appropriate to adjudicate the energy efficiency issue on the basis of the record in this proceeding and undertake our consideration of the new PURPA standard when it is properly before us.

B. DR 92-165

1. Issues Resolved by the Joint Recommendations

We have reviewed the record in this proceeding and find that the Joint Recommendations of the parties and Staff regarding certain previously contested issues in this proceeding are just and reasonable. Accordingly, we will accept and approve those recommendations and we will require PSNH to reduce its energy costs to reflect the full energy penalty of the Newington sale to Central Vermont Public Service and to reflect a final net disallowance of \$139,500 related to the BECO swap.

2. Issues to be Deferred to Next FPPAC Proceeding

We accept and approve the recommendations of Staff and the parties to defer resolution of the following issues to the next FPPAC proceeding during May, 1993:

- a. Connecticut Yankee Thermal Shield Outage;
- b. Seabrook Operation and Maintenance Costs; and
- c. Power Transactions between PSNH, NU Initial System and the N.Y. Power Authority.

IV. CONCLUSION

Based upon the foregoing analysis, we approve and order that the FPPAC rate for December

1, 1992, through May 31, 1993, be made permanent at the level of 0.274 cents per kilowatt-hour but that PSNH FPPAC costs be reduced to reflect the full CVPS/Newington energy penalty disallowance of \$355,661; the final BECO swap disallowance of \$139,500; and the NU/PSNH swap settlement disallowance of \$250,000. These disallowances aggregate to a total of \$745,161 for these proceedings of which the record indicates PSNH has only booked \$44,000 as of this time. Accordingly, we direct PSNH to review its proposed accounting entries to implement the foregoing cost recovery disallowances within two weeks of the date of our order.

It is our understanding from the record in these proceedings and the Joint Recommendation in DR 92-165 for interpreting and applying Paragraph B.K. of the Rate Agreement, that these disallowances will not be used to reduce the current FPPAC rate, but would be booked against certain items of cost which PSNH is deferring for future recovery in accordance with the Rate Agreement, thereby lowering the amounts of those costs to be recovered from ratepayers in the future. In a similar vein, we observed in our last FPPAC decision that:

it is necessary to decouple PSNH's proposed FPPAC from its current level of prudent cost recovery. Even though the ultimate level of prudent cost recovery allowed by the Commission will be less than the BA reference level contained in FPPAC, PSNH is entitled under Paragraph B.K. to recover some of the FPPAC costs that have been deferred for future recovery, thereby benefitting customers over the long run.

Report and Order No. 20,503 (June 5, 1993) at 21.

In connection with PSNH's deferral of costs for future recovery, we would be remiss if we do not address the issue of the amount of payments to SPPs that PSNH is now deferring for future recovery. Section 12 of the Rate Agreement obligates NU to "undertake its *best efforts* to renegotiate the arrangements with the thirteen Small Power Producer projects identified in Exhibit D...." (Emphasis supplied.) The record in this proceeding reveals that PSNH has currently deferred approximately \$71 million in payments to SPPs from its ratepayers; without action to renegotiate under Section 12 of the Rate Agreement, PSNH estimates that its ratepayers will eventually be liable for over \$190 million as of June, 1997.

We are concerned by this rapid and large buildup of future ratepayer liability, particularly because the Rate Agreement which we approved in July, 1990, (114 PUR4th 385) clearly contains a process for avoiding this situation. We have requested an opinion from the Attorney General regarding our authority to change the rates that are currently in effect for SPPs.

In closing, we take note of the legal memorandum submitted to us in these proceedings wherein NU/PSNH stated that it "continues to reserve the right to argue that the Commission may not disallow replacement power costs resulting from a Seabrook outage." *Statement of Position as to Jurisdiction of the Commission to Disallow Replacement Power Costs* (December 15, 1992) at 2. NU/PSNH made it clear, for the first time that it disagrees with the Commission's view of its own authority over replacement power costs set out by the Commission in its decision approving the merger and Rate Agreement. *Id.* at 6. These important legal issues need not be addressed at this time given our decision not to disallow any post-merger replacement power costs related to Seabrook outages.

Our order will issue accordingly.

Concurring: March 23, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the FPPAC rate for December 1, 1992, through May 31, 1993, be made permanent at the level of 0.274 cents per kilowatt- hour; and it is

FURTHER ORDERED, that the Joint Recommendations of the parties and Staff regarding certain previously contested issues in these proceedings, and issues to be deferred to future proceedings, are just and reasonable and are hereby approved; and it is

FURTHER ORDERED, that PSNH's FPPAC costs be reduced to reflect the full CVPS/Newington energy penalty disallowance of \$355,661; the adjusted BECO swap disallowance of \$139,500; and the NU/PSNH swap disallowance for settlement purposes of \$250,000; and it is

FURTHER ORDERED, the PSNH review with Staff its proposed accounting entries to implement the foregoing cost recovery disallowances within two weeks of the date of this order; and it is

FURTHER ORDERED, that PSNH is obligated under the Rate Agreement to provide service in accordance with good utility management and business principles and, therefore, should be implementing energy efficiency projects with paybacks of up to five years; and it is

FURTHER ORDERED, that PSNH's proposed short-term rates for small power producers (Exhibit 14) are approved.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of March, 1993.

ATTACHMENT A

November 25, 1992

Wynn E. Arnold, Esquire Executive Director and Secretary New Hampshire Public Utilities Commission Eight Old Suncook Road, Building One Concord, New Hampshire 03301-5185

Re: Fuel and Purchased Power Adjustment Clause ("FPPAC")

Docket No. DR 92-050

Dear Secretary Arnold:

Enclosed please find the original and eight copies of the Joint Recommendations for Commission Orders in this proceeding. The Joint Recommendations have been signed by counsel for the Staff and the Consumer Advocate. No other party took an active role in this phase of the proceeding.

These Joint Recommendations resolve all outstanding issues related to the PSNH-NU Capacity Swaps and Seabrook outages during the previous FPPAC reconciliation period. There is only one issue which remains to be briefed, the issue of energy efficiency measures. Resolution of this issue, however, has no effect upon the proposed rate of \$0.00274 per

kilowatt-hour.

While it is not necessary for the Commission to fully deliberate on and approve these Joint Recommendations on an expedited basis, the parties propose that the Commission approve the proposed FPPAC rate of \$0.00274 per kilowatt-hour at its regular meeting on Monday, November 30, 1992 to enable PSNH to begin billing with its normal cycles beginning December 1, 1992.

Very truly yours,

Gerald M. Eaton

Corporate Counsel

GME/dib

Enclosure cc: Attached Service List

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[THE SERVICE LIST DID NOT APPEAR IN NEW HAMPSHIRE VOLUME 78.]

Public Service Company of New Hampshire Fuel and Purchased Power Adjustment Clause
Docket No. DR 92-050

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STATE OF NEW HAMPSHIRE before the NEW HAMPSHIRE PUBLIC UTILITIES
COMMISSION

Public Service Company of New Hampshire Fuel and Purchased Power Adjustment Clause
Docket No. DR 92-050

JOINT RECOMMENDATIONS FOR COMMISSION ORDER

WHEREAS, in its Report and Order No. 20,503 dated June 5, 1992, the Commission
determined that it was not persuaded by PSNH's arguments that the savings from any pre-merger
swaps or sales be shared on an equal 50/50 basis between PSNH and NU; and

WHEREAS, in its Order No. 20,503 the Commission provided for additional evidence to be
presented on the NU-PSNH swap transactions; and

WHEREAS, the parties have met several times after the Commission issued Order No.
20,503 and before the hearings were resumed in this proceeding to discuss the swaps and
Sharing Agreement issues; and

WHEREAS, additional evidence was presented through pre-filed supplemental written
testimony dated September 4, 1992 and the oral direct and cross examination of Mr. Sabatino
conducted on November 9 and 10, 1992; and

WHEREAS, the parties have conferred subsequent to the conclusion of hearings to agree on
matters to be included in briefs and to narrow the areas of disagreement relating to the
unresolved issues related to the NU-PSNH swap transactions; and

WHEREAS, the parties have reached agreement on a resolution of the issues related to the
swap transactions; and

WHEREAS, the parties have agreed that no disallowance for outages at Seabrook Station are
appropriate in this docket, and that briefing of such issues is not necessary; and

WHEREAS, the parties have agreed further on the Staff's reservation of rights to raise issues

regarding outages and power reductions at Seabrook Station in the future which may be caused by third parties; and

WHEREAS, the parties have identified the issue of energy efficiency projects as the only one that will be briefed and recommend a revised schedule for briefing and Commission action; and

WHEREAS, the agreement of the parties, as evidenced by these Joint Recommendations, is dependent upon a minor adjustment to the procedural schedule and the Commission's acceptance of these Joint Recommendations;

NOW, THEREFORE, the parties make the following Joint Recommendations:

I. *Swap Transactions* The parties have attempted but were unable to reconcile their respective positions on the issues related to the NU-PSNH Capacity Swaps. Nevertheless, for the purposes of settlement, and, in the case of PSNH, without admitting any imprudence or wrongdoing, the parties jointly recommend a disallowance related to the swaps of \$250,000. The parties' positions and rationale for this settlement are summarized below. This represents a final, permanent settlement of all issues related to the swaps, whether or not expressly raised in this proceeding, except as the swaps may have been affected by the May and June 1992 transactions with the New York Power Authority and deferred as an issue to the next FPPAC proceeding in Paragraph H of the Joint Recommendations in Docket No. DR 92-165.

The Staff feels that PSNH didn't heed the Commission's directive in Docket No. DR 91-011 with respect to demonstrating that PSNH optimized its transactions with NU and aggressively sought the best possible market for PSNH's surplus energy. The Staff acknowledges, however, that the new information presented by PSNH with respect to NU's partially unwritten agreement with the State that the swap savings were to be shared on a 50/50 basis and that NU and PSNH were to deal first with each other rather than with third parties substantially changed the Staff's view of the merits of PSNH's case. The Staff also now believes that it is probable there was no eco-

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conomic harm to PSNH's customers as a result of the swap transactions. Nevertheless, the Staff continues to believe that PSNH didn't comply with the Commission's directive that PSNH should keep its customers interests first.

PSNH disagrees with the Staff's contention that it didn't comply with the Commission's orders, and believes that substantial evidence demonstrates that PSNH always had its customers' interests in mind. However, even assuming that PSNH didn't heed the Commission's order, PSNH believes it has proven that not only was there no economic harm, but that customers benefited more from the swap transactions than they would have had PSNH dealt with other parties prior to dealing with NU. PSNH also believes that the 50/50 sharing was required by its agreement with the State and by the Rate Agreement, and that NU would never have agreed to take less than half of the swap savings because it was a buyers' market and NU could have done as well or better dealing with other sellers of energy.

In view of these divergent positions, the parties agreed that a \$250,000 disallowance for the purpose of settlement was reasonable.

II. *Seabrook Outages and Third Parties* In its testimony, the Staff testified that the Commission could disallow recovery of \$454,500 in replacement power costs for outages at Seabrook Station described in OPRR's 14, 15, and 20, but did not recommend any actual disallowances because of subjective factors. PSNH does not agree that these outages were the result of management imprudence or that disallowances would have been appropriate for these outages. However, because the parties agree that no disallowances for Seabrook outages are appropriate in this docket, none of the outages will be briefed and the parties recommend no disallowances for such outages.

The Commission in Docket No. DR 91-011 held that it is inappropriate at this time to allocate replacement power costs related to outages at Seabrook Station cause by manufacturing defects or negligence of third parties to PSNH's investors in the absence of imprudence on the part of Seabrook's management. PSNH agrees with this holding, but the Staff disagrees. The Staff has not, however, recommended disallowances for any of the outages caused by third parties in either this proceeding or in Docket No. DR 92-165 in part because New Hampshire Yankee and North Atlantic Energy Service personnel have taken appropriate action to pursue claims against third parties whenever possible. The parties to these Joint Recommendations agree that Staff's failure to challenge the Commission's holding should not be construed as an acceptance of that holding and that Staff reserves the right to challenge that holding in future proceedings, under the appropriate circumstances.

III. *Issues to be Briefed* The parties have narrowed the issues for briefing to energy efficiency programs.

IV. *Recommended Schedule for Briefing* As described in the Joint Recommendations for Commission Orders in Docket No. DR 92-165, the parties recommend adoption of the FPPAC rate proposed by PSNH in that proceeding. The parties further recommend that the Commission's full written decision in this proceeding be deferred until completion of a new, proposed briefing schedule as follows: briefs due December 15, 1992, reply briefs due December 22, 1992. It is not expected that any final action by the Commission in this docket will impact the jointly recommended FPPAC rate, since any such action can be accommodated by making appropriate adjustments to costs retroactively, if necessary.

V. *Conditions Under Which These Joint Recommendations are Made* These Joint Recommendations represent a final resolution of the issues in this proceeding, unless otherwise specifically reserved for further investigation or briefing. Each item of this settlement is dependent upon the others and upon the Joint Recommendations in Docket No. DR 92-165, without reservation or modification. Should the Commission decide not to accept these Joint Recommendations in their entirety and the Joint Recommendations in Docket No. DR 92-

165 in their entirety, then the parties reserve their rights to make any arguments with respect to the issues in this case which may be inconsistent with these Joint Recommendations. The discussions and drafts of possible settlement agreements that led up to this settlement are held in confidence, and may not be disclosed or used against or by any party in this or future proceedings. The issues resolved in this settlement may not be used as an admission by any party

as to the merits of the resolved issue or as precedent in a future proceeding.

WHEREFORE, the undersigned parties, the Staff of the New Hampshire Public Utilities Commission, the Office of the Consumer Advocate and Public Service Company of New Hampshire, respectfully request that the Commission:

- A. Adopt these Joint Recommendations for Commission Order,
- B. Require PSNH in Docket No. DR 92-165 to reduce its FPPAC costs by \$250,000 to reflect the parties' settlement herein of all issues related to the NU-PSNH swaps,
- C. Find no disallowance for the Seabrook Station outages
- D. Approve the adjustment in the procedural schedule.

Respectfully submitted,

NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION STAFF

11/25/92 BY: /s/ James T. Rodier DATE

OFFICE OF THE CONSUMER ADVOCATE

11/25/92 BY: /s/ Michael W. Holmes DATE

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

11/25/92 BY: /s/ Gerald M. Eaton DATE

ATTACHMENT B

November 25, 1992

Wynn E. Arnold, Esquire Executive Director and Secretary New Hampshire Public Utilities Commission Eight Old Suncook Road, Building One Concord, New Hampshire 03301-5185

Re: Fuel and Purchased Power Adjustment Clause ("FPPAC")

Docket No. DR 92-165

Dear Secretary Arnold:

Enclosed please find the original and eight copies of the Joint Recommendations for Commission Orders in this proceeding. The Joint Recommendations have been signed by counsel for the Staff and the Consumer Advocate. There were no other parties to this proceeding.

These Joint Recommendations resolve or defer to later proceedings all outstanding issues related to PSNH's proposed FPPAC rate, including a joint recommendation on the proper disallowance for the BECo Swap. There is only one remaining issue which PSNH will address in a position paper regarding the Commission's authority to review the prudence of North Atlantic Energy Corporation's expenses recovered through the Seabrook Power Contract. As no disallowance for Seabrook expenditures have been recommended in this docket, receipt of PSNH's position paper should have no effect upon the proposed rate of \$0.00274 per kilowatt-hour.

While it is not necessary for the Commission to fully deliberate on and approve these Joint Recommendations on an expedited basis, the parties propose that the Commission approve the proposed FPPAC rate of \$0.00274 per kilowatt-hour at its regular meeting on Monday,

November 30, 1992 to enable PSNH to begin billing with its normal cycles beginning December 1, 1992.

Very truly yours,

Gerald M. Eaton

Corporate Counsel

GME/dib

Enclosure cc: Attached Service List

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[THE SERVICE LIST DID NOT APPEAR IN NEW HAMPSHIRE VOLUME 78.]

Public Service Company of New Hampshire Fuel and Purchased Power Adjustment Clause
Docket No. DR 92-165

SERVICE LIST

Wynn E. Arnold, Esq. Executive Director and Secretary State of New Hampshire Public
Utilities Commission Eight Old Suncook Road, Bldg. One Concord, New Hampshire
03301-5185

Gerald M. Eaton, Esq. Public Service Company of N.H. 1000 Elm Street, P.O. Box 330
Manchester, New Hampshire 03301- 0330

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Concord, New Hampshire 03302-0854

Anthony Callendrello New Hampshire Yankee Lafayette Road, P.O. Box 300 Seabrook,
New Hampshire 03874

James T. Rodier, Esq. Staff Attorney State of New Hampshire Public Utilities Commission
Eight Old Suncook Road, Bldg. One Concord, New Hampshire 03301-5185

Michael D. Cannata, Jr. Chief Engineer State of New Hampshire Public Utilities
Commission Eight Old Suncook Road, Bldg. One Concord, New Hampshire 03301-5185

Thomas C. Frantz, Utility Analyst State of New Hampshire Public Utilities Commission
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One Concord, New Hampshire 03301-5185

Robert P. Knickerbocker, Esq. Day Berry and Howard CityPlace Hartford, Connecticut
06103-3499

Stephen R. Hall, Rate & Regulatory Services Manager Public Service Company of NH P.O.
Box 330 Manchester, New Hampshire 03105

Richard A. Soderman Northeast Utilities Service Co. P.O. Box 270 Hartford, Connecticut
06141-0270

Robert A. Baumann Northeast Utilities Service Co. P.O. Box 270 Hartford, Connecticut

06141-0270

Paul A. Savage, Esq. Brown, Olson & Wilson 501 South Street Concord, New Hampshire 03304

Eugene F. Sullivan, Finance Director State of New Hampshire Public Utilities Commission Eight Old Suncook Road, Bldg. One Concord, New Hampshire 03301-5185

JOINT RECOMMENDATIONS FOR COMMISSION ORDER

WHEREAS, the procedural schedule in this proceeding directed the parties to confer, subsequent to the conclusion of hearings, concerning matters to be included in briefs; and

WHEREAS, the procedural schedule also provided that briefs would be filed on November 25, 1992 and reply briefs would be filed on December 1, 1992, anticipating Commission action at its meeting on December 7, 1992; and

WHEREAS, the parties have agreed on issues which are no longer contested, issues which may be deferred until a later proceeding, and on elimination of briefs and presentation of only a position paper by PSNH; and

WHEREAS, the parties agreement, as evidenced by these Joint Recommendations, is dependent upon a minor adjustment to the procedural schedule and the Commission's acceptance of these Joint Recommendations;

NOW, THEREFORE, with respect to each of the issues listed below, the parties recommend that:

A. *Trigger Mechanism* - The proposal provided by PSNH in its pre-filed testimony be accepted by the Commission.

B. *Newington Gas Conversion, Savings from Test Generation* - PSNH's proposed treatment of the savings from test generation on natural gas be accepted by the Commission.

C. *Energy Penalty from Newington Sale to Central Vermont Public Service*- PSNH's recommendation to reduce FPPAC costs by an additional \$355,661 to reflect the full energy penalty on a "post-NU/PSNH swap basis" be accepted by the Commission.

D. *Interpretation of Paragraph B.K. Deferrals* - PSNH's proposal to use actual data to adjust retroactively Paragraph B.K. deferrals as necessary to meet the objective of a zero FPPAC rate to the extent possible before applying any actual overrecovery or underrecovery to the next FPPAC period, as long as Public Service applies this interpretation in a consistent manner, be accepted by the Commission.

E. *Application of SPP Settlement in "Creep" Docket* - PSNH's method for accounting for the SPP Settlement amounts be accepted by the Commission.

F. *Reserve Shutdowns at Merrimack Unit II* - No disallowance related to the forced outages which followed the weekend reserve shutdowns of Merrimack Unit II be found.

G. *BECO Swap Disallowance* - The disallowance for the BECo swap be reduced from \$900,000 to \$139,500. This amount evenly splits the difference between PSNH's recommended disallowance of \$44,000 and the \$235,000 disallowance the Staff would

have recommended. The \$44,000 amount was calculated in accordance with the methodology described in the Commission's order in Docket No. DR 92-050. The \$235,000 amount was what PSNH would have calculated had it done the calculation at the time of the hearings in Docket No. DR 92-050.

H. *Issues to be Deferred* - The following issues be deferred for consideration in the next FPPAC proceeding, subject to the conditions described below:

1. Connecticut Yankee Thermal Shield Outage - PSNH and Northeast Utilities Service Company will continue to keep the Staff and the OCA informed

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of developments in the Connecticut proceeding that as of this date indicate that there may be a disallowance due to this outage at Connecticut Yankee. Copies of the DPUC's final decision and any appeals therefrom will be furnished to the parties.

2. Seabrook Operation and Maintenance Costs - The Staff and OCA reserve the right during the next FPPAC proceeding to make further inquiry into the items supplied in Response to Staff Follow Up Request No. 21. These items include regulatory, expense, legal expense, lobbying expense, costs for consultants, and advertising expense.

3. Power Transactions Between PSNH, NU Initial System, and the N.Y. Power Authority - Transactions in May and June 1992 described in Mr. Sabatino's testimony will be deferred for briefing until the next FPPAC proceeding. The Staff and OCA reserve the right to address the concerns raised in the Staff's rebuttal testimony, namely: the distinction between energy and capacity sales; whether system power sales are allowed under the Sharing Agreement; Condition 5 in Connecticut and its impact on New Hampshire customers; and the capacity sale to NYPA in May and June 1992 and its impact on NU-PSNH swap savings.

I. *PSNH Position Paper in Lieu of Brief* - Other than the deferred issues discussed above, there are no issues in dispute to be briefed at this or any other time. However, PSNH will state its position in writing, per Staff's request at the hearing on November 12, 1992, with respect to the Commission's jurisdictional authority post-merger to disallow recovery of PSNH's replacement power costs due to imprudent Seabrook outages. This issue is not active at this time since no disallowance has been recommended, and other parties are not expected to address this issue.

The Staff and PSNH indicated to the Commission at the hearing on November 10, 1992, that their briefs would address the issue as to whether the Commission and Staff can explore potential disallowances of costs incurred prior to the reconciliation period under review in any FPPAC proceeding. Although the parties' positions differ as to this issue, there is no current proposed disallowance or dispute as to deferral of issues that could result in a future disallowance that requires resolution of this issue at this time. The parties, therefore, will not brief this issue, but each reserves its rights to argue its respective position if the issue arises in a future proceeding.

J. *Recommended Rate and Schedule for Submission of PSNH's Position Paper* The Commission approve the proposed rate of \$0.00274 per kilowatt-hour for the period December 1, 1992 through May 31, 1993 at its November 30, 1992 meeting so that the new rate can be implemented in a timely manner. The reduction to FPPAC costs

recommended in Paragraphs C and G above and in Paragraph I of the Joint Recommendations in Docket No. DR 92-050 will not cause any change to the proposed FPPAC rate, since such reductions can be accommodated by making appropriate adjustments to costs retroactively by reducing the deferred balance under Paragraph B.K. of FPPAC, in accordance with Paragraph D above. The parties further recommend that PSNH's position paper on the issue discussed in Paragraph I above be filed by December 15, 1992.

K. Conditions Under Which These Joint Recommendations are Made - These Joint Recommendations represent a

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final resolution of the issues in this proceeding, unless otherwise specifically reserved for further investigation or briefing. Each item of this settlement is dependent upon the others and upon the Joint Recommendations in Docket No. DR 92-050 without reservation or modification. Should the Commission decide not to accept these Joint Recommendations in their entirety and the Joint Recommendations in Docket No. DR 92-050 in their entirety, then the parties reserve their rights to make any arguments with respect to the issues in this case which may be inconsistent with these Joint Recommendations. The discussions and drafts of possible settlement agreements that led up to this settlement are held in confidence, and may not be disclosed or used against or by any party in this or future proceedings. The issues resolved in this settlement may not be used as an admission by any party as to the merits of the resolved issues or as precedent in a future proceeding.

WHEREFORE, the undersigned parties, the Staff of the New Hampshire Public Utilities Commission, the Office of the Consumer Advocate and Public Service Company of New Hampshire, respectfully request the Commission to:

- A. Adopt these Joint Recommendations for Commission Order,
- B. Approve the filed FPPAC rate of \$0.00274 per kilowatt-hour,
- C. Require PSNH to reduce its FPPAC costs by an amount
 - (i) of \$355,661 to reflect the full energy penalty of the Newington sale to CVPS;
 - (ii) to reflect a net disallowance of \$139,500 related to the BECo swap; and
 - (iii) to reflect the \$250,000 settlement of the NU-PSNH swap issues provided in the Joint Recommendations in Docket No. DR 92-050.

Respectfully submitted,

NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION STAFF

11/25/92 BY: /s/ James T. Rodier DATE

OFFICE OF THE CONSUMER ADVOCATE

11/25/92 BY: /s/ Michael W. Holmes DATE

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

11/25/92 BY: /s/ Gerald M. Eaton DATE

=====

NH.PUC*03/24/93*[75034]*78 NH PUC 171*Connecticut Valley Electric Company, Inc.

[Go to End of 75034]

Re Connecticut Valley Electric Company, Inc.

Additional respondent: New Hampshire Department of Environmental Services

DE 93-059

Order No. 20,796

78 NH PUC 171

New Hampshire Public Utilities Commission

March 24, 1993

Order *NISI*

BY THE COMMISSION:

ORDER

WHEREAS, the New Hampshire Department of Environmental Services, Air Resources Division (Division) has requested the Connecticut Valley Electric Company, Inc. (CVEC) to provide a list of all CVEC customers that are served at primary or transmission voltage in order to assist the Division in carrying out its New Hampshire neutral inspection scheme, a program which is designed to determine if users are complying with federal rules governing polychlorinated biphenyls (PCBs) (40 C.F.R. 761); and

WHEREAS, CVEC observes a policy of declining to disclose specific information regarding its customers, and CVEC has declined to provide the list of customers voluntarily to the Division without the list being protected from public disclosure; and

WHEREAS, the Division has requested the assistance of the Commission in this matter, and the staff has made a similar request of CVEC; and

WHEREAS, under RSA 363:18 the Commission shall cooperate with other state agencies and assist them in the conduct of their official duties; and

WHEREAS, under CVEC's tariff, customers served under primary general service rate GV and transmission rate T are responsible for providing transformers to reduce the voltage delivered by CVEC; and

WHEREAS, the Commission finds that the confidentiality of customer records protects both the customers' privacy interests and the utilities' competitive interest, and that this

information is exempt from public disclosure under RSA 91-A:5, IV (Supp.); it is hereby

ORDERED *NISI*, that, under the conditions of this order, CVEC shall provide the Division with one copy of a list of the names and service addresses of its customers currently provided service under its rate GV and T that own or lease transformers; and it is

FURTHER ORDERED, that the Division shall use the list only for its New Hampshire Neutral Inspection Scheme; and it is

FURTHER ORDERED, that the Division's files, either electronic or paper, containing the list of names and addresses supplied by CVEC pursuant to this Order shall continue to be subject to this Order and shall not be disclosed; and it is

FURTHER ORDERED, that pursuant to New Hampshire Admin. Rule PUC 203.01, CVEC cause an attested copy of this Order *NISI* to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than April 5, 1993, and to be documented by affidavit filed with this office on or before April 20, 1993; and it is

FURTHER ORDERED, that any interested person may file a written statement or objection or request an opportunity to be heard on this matter no later than April 20, 1993; and it is

FURTHER ORDERED, that this Order *NISI* will be effective on April 23, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By Order of the New Hampshire Public Utilities Commission this twenty-fourth day of March, 1993.

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NH.PUC*03/25/93*[75033]*78 NH PUC 169*Beaver Village Realty Trust

[Go to End of 75033]

Re Beaver Village Realty Trust

DR 92-226

Order No. 20,795

78 NH PUC 169

New Hampshire Public Utilities Commission

March 25, 1993

Report and Order Appointing Receiver and Scheduling an Informational Hearing.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On March 26, 1992, the Commission Staff (Staff) contacted William Dickey by letter informing him that, as the owner of a public water utility located in a limited portion of the Town of Salem in a development known as Porcupine Park, he was subject to the jurisdiction of the Commission and requested that he file a petition for authority to operate the system and to establish rates for water consumption.

On March 31, 1993, Mr. Dickey responded to Staff's letter informing it that the utility was owned by Beaver Village Realty Trust (Trust), and that he managed the system for the Trust which charged customers \$60 per year "maintenance". Mr. Dickey further informed Staff that the Trust was in bankruptcy, and the utility was an asset in bankruptcy.

In early December 1992, the customers of the Trust and the Commission were notified by Granite State Electric Company, pursuant to N.H. Admin. R., Puc 303.08(1), that electric service to the Trust (used to pump water) would be terminated for failure to pay its electric bill since July of 1992, unless payment arrangements could be reached.

On December 17, 1992, the Commission issued Order No. 20,703 ordering the Trust, its trustee(s) and beneficiaries to appear at a hearing on December 29, 1992, pursuant to RSA 374:47-a (Supp. 1992) to show cause why the water utility should not be placed in receivership. The Commission further ordered that a copy of the order be served upon each of the Trust's customers.

At the December 29, 1992 hearing, William Dickey appeared for the Trust and informed the Commission that he had not served a copy of the order upon any of the customers, that the water utility was still an asset in bankruptcy, that he was operating the system and would pay the electric bill, and that he believed the commission should name a receiver to operate the system.

Because the customers were not provided with a copy of the Commission's Order, they were not represented at the December 29, 1992 hearing. Thus, the Staff requested an opportunity to meet with the customers before the appointment of a receiver to determine if the customers had any interest in managing the system as the Commission's receiver and to inform the customers of the system's status.

At the Commission's direction, Staff held an informational hearing in the Town of Salem with the customers, a representative of the Water Supply and Pollution Control Division of the Department of Environmental Services, and the municipal agents of the Town of Salem. Staff also contacted the Trustee in Bankruptcy concerning the status of the water utility as a bankruptcy asset.

On February 8, 1993, the Trustee in Bankruptcy filed a Notice of Intent to abandon the water utility assets with the bankruptcy Court which ripened on February 23, 1993. Thus, the water utility assets returned to the control of the Trust on February 23, 1993.

After two informational hearings with the systems customers in Salem conducted and attended by Staff, the Commission was advised that a professional operator in the business of operating water utilities should be appointed to act as receiver. The Staff reached this conclusion because, although some homeowners had suggested they be appointed receiver, there was not agreement among the customers, i.e., some preferring a professional operator to run the system,

and because there was no "legal entity" consisting of all of the customers of the system. Furthermore, Staff requested that the Commission act expeditiously in appointing a receiver as it was receiving complaints from customers of rust and sediment in the water.

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At the request of the Commissioners, Staff contacted four public water utilities and one private operator and requested bids to operate the system as its receiver pursuant to RSA 374:47-a. The extent of the receiver's responsibilities, as set forth in the requested bids, are to: 1) visit the system on a weekly basis to ensure its proper operation; 2) pay the monthly electric bill estimated at \$300, to be reconciled on a monthly basis; 3) conduct monthly bacteriological tests of the system's water supply; 4) bill the customers for its services; 5) provide 24 hour coverage for emergencies; and 6) to generally provide management for the system.

In response to these requests, Staff received three proposals to operate the system and recommended that the Commission appoint the owners of Lancaster Farms Water System (a.k.a. Lewis Builders) as the system's receiver. Staff based this advice on the fact that, although all three bids were monetarily similar, Lewis Builders operates a system known as Lancaster Farms which is located approximately 500 feet from Porcupine Park. Thus, the Staff believed that the proximity of the two systems and Lewis Builders' familiarity with the area would provide certain synergies in the operation of the systems and certain intangible benefits to the customers of Porcupine Park.

II. COMMISSION ANALYSIS

We adopt Staff's recommendation based on the reasoning set forth above.

Lancaster Farms Water Company is appointed receiver of the Beaver Village Realty Trust Water System for consecutive thirty (30) day periods commencing with the date of this order pursuant to RSA 374:47-a until otherwise ordered by this Commission.

The next issue which we must address is a permanent resolution of the ownership and operation of the water utility which is in the public good. RSA 374:22; 374:26. We have been advised by Staff that the homeowners in Porcupine Park have been investigating various alternatives to provide for the long term provision of water to their development, and we look forward to their input.

However, we believe it necessary to begin an investigation pursuant to RSA 374:4 into the current ownership of the system and the owner's plans relative to the system and its possible sale, given Mr. Dickey's representations that he personally had no interest in operating the system and that the assets were paid for from the proceeds of the sales of homes. *See generally*, Transcript December 29, 1992.

Therefore, a hearing shall be held on April 20, 1993 at 10:00 a.m., to ascertain the identity of the trustee and beneficiary(ies) of the Beaver Village Realty Trust (to whom the water utility assets reverted on February 23, 1993) and to outline a plan for the ultimate franchising of this water utility.

Our order will issue accordingly. Concurring: March 25, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby ORDERED, that Lancaster Farm Water Company (a.k.a. Lewis Builders) (LFWC) is appointed receiver of the Beaver Village Realty Trust Water System located in a subdivision of the Town of Salem known as Porcupine Park subject to the following terms and conditions:

1. LFWC is authorized to bill each of the customers receiving service from the Beaver Village Realty Trust Water Company a pro rata share of the \$750 per month receivership fee;
2. The \$750 monthly fee shall include an estimated electric bill of \$300 per month to be reconciled to the actual electric bill in the next billing cycle;
3. The \$750 monthly fee shall include a minimum of one visit to, and inspection of, the water system per week;
4. The \$750 monthly fee shall include all billing and collection of the monthly fee;

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5. The \$750 monthly fee shall include 24 hour a day emergency service;
6. The \$750 monthly fee shall include the collection and testing of a monthly water sample for bacteriological testing;
7. Terms and conditions of service shall be governed by this Order, the rules and regulations of the Commission, and, where applicable, the filed tariff of the Lancaster Farms Water Company;
8. The "jobbing" rate for unscheduled service calls shall be \$35 per hour;
9. The \$750 monthly fee shall not include any necessary repairs to the system treated as a capital expenditure or as an expense under the Commission's Chart of Accounts for Water Utilities; and
10. No such repairs or capital additions shall be made without prior Commission approval, or its authorized representative from Staff; and it is

FURTHER ORDERED, that LFWC shall immediately send a letter to all customers of the Beaver Village Realty Trust, to include but not be limited to, an introduction outlining its experience in the management and construction of water utilities, its billing schedule, the 24 hour emergency service number and a copy of this Report and Order; and it is

FURTHER ORDERED, that a hearing shall be held on April 20, 1993 at 10:00 a.m., to ascertain the identity of the trustee and beneficiary(ies) of the Beaver Village Realty Trust (to whom the water utility assets reverted on February 23, 1993) and to outline a plan for the ultimate franchising of this water utility.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of March, 1993.

=====

NH.PUC*03/25/93*[75035]*78 NH PUC 172*Concord Steam Corporation

[Go to End of 75035]

Re Concord Steam Corporation

DR 92-130
Order No. 20,797
78 NH PUC 172

New Hampshire Public Utilities Commission

March 25, 1993

Report and Order Approving Rate Case Settlement.

Appearances: David W. Marshall, Esq. of Castaldo, Hanna, & Malmberg on behalf of Concord Steam Corporation; and E. Barclay Jackson, Esq. for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. Procedural History

On August 21, 1992, the Concord Steam Corporation (Concord Steam or the Company) filed revised tariff pages, pre-filed testimony, and exhibits with the New Hampshire Public Utilities Commission (Commission), designed to produce a permanent increase in annual revenues of \$310,429. On the same date, the Company filed a petition for a temporary increase in annual revenues equal to the permanent increase. The effective date requested was October 1, 1992.

On September 14, 1992, the Commission suspended the Company's filed tariff pages, pursuant to RSA 378:6, pending investigation and decision [Order No. 20,604]. On October 21, 1992, at a duly noticed hearing, testimony and exhibits were presented by the Company and by the Commission Staff [Staff]. The Commission approved the Company's requested temporary revenue increase but required that such increase be implemented by "increasing each component of the existing rates by a uniform percentage." [Order No. 20,658, November 2, 1992.]

In accordance with the procedural schedule, the Staff propounded two sets of data requests to which the Company responded, the Staff filed written testimony and exhibits, and the Company propounded one set of data

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requests to which the Staff responded. The Staff also conducted an audit of the Company's books and records and issued a final audit report after discussions with the Company regarding preliminary audit findings.

As a result of the discovery process and discussions between the Company and Staff, a

settlement was reached with respect to the issues in this case, as evidenced by the Stipulation Agreement presented as Exhibit 3 [appended as Appendix A hereto and made a part hereof] at a hearing on merits held on March 10, 1993. The Company and the Staff supported the Stipulation Agreement with testimony and exhibits presented at the hearing.

The Office of the Consumer Advocate did not file an appearance or otherwise participate in these proceedings.

II. *RECOMMENDATIONS OF THE COMPANY AND STAFF*

The issues that have been resolved by the Stipulation Agreement fall into the following categories: A) Revenue Increase, B) Rate Design, C) Recoupment Surcharge, D) Reconciliation of Temporary and Permanent Rates, and E) Bloomfield Associates Agreement.

A. *Revenue Increase*

The Staff and the Company agreed that the Company, using traditional ratemaking methodology, should be entitled to an annual increase in its base revenues of \$458,209. However, due to its concerns of "rate shock," the Company agreed to file tariff pages designed to produce annual base revenues of only \$309,445. The Company and Staff agree that this amount is sufficient for the Company to meet its obligation to provide efficient and effective steam service to ratepayers and also the Company's need to remain competitive in the marketplace.

The Staff and the Company agreed that the Company's rate base for rate making purposes is \$3,396,862; that the Company's test year proforma utility operating income loss is \$110,559; and that the Company's overall cost of capital during the test year, determined using Staff's discounted cash flow [DCF] analysis, was 9.51%, consisting of a cost of equity of 9.73%, a cost of long term debt of 7.67%, and a cost of short term debt of 8.13%.

The Staff and the Company agreed to utilize the weather normalization methodology employed by Staff in its testimony and also Staff's adjusted steam volumes and revenue figures stemming from the application of that weather normalization methodology to the test year.

B. *Rate Design*

The Company and the Staff stipulated to the permanent rates set forth on the proposed sample tariff page attached to the Stipulation Agreement as Attachment B and that the permanent rates will generate the agreed upon revenue target of \$2,602,272.

The Company's General Usage (G) Rate, shown to be cost-based, is agreed upon as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

First 500 thousand lbs. steam/month = \$10.68 per thousand lbs.
 500-2000 thousand lbs. steam/month = \$ 9.72 per thousand lbs.
 Over 2000 thousand lbs. steam/month = \$ 8.53 per thousand lbs.

Although Concord Steam and Staff agree that no change need be made in the Company's Energy Cost Adjustment, the Commission may audit and review the Company's fuel usage reports on an annual basis to verify that the fuel changes continue to be accurate and reasonable.

A meter charge, based on the size of a customer's meter, is agreed upon as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Type "A" or "B" Meter \$5/month for each one in service

Type "C", "D", or "E" \$15/month for each one in service

Type "F", "G" or Steam Flow \$25/month for each one in service

Staff and the Company agreed that the Company's new permanent rates, including the meter charges, shall be effective on a bills rendered basis beginning on the date of the Commission's order approving this rate case settlement. Compliance tariffs are to be filed no later than fifteen [15] days from the date of the Commission's order.

C. Rates

Several minor revisions to existing tariff pages were introduced by the Company at the hearing on March 10, 1993; these changes were supported by the Staff. These changes are in the 3rd Revised Page No. 6, 3rd Revised Page No. 9, and 2nd Revised Page No. 12, all of the Concord Steam Corporation's tariff, NHPUC No. 2 Steam. The purpose of these revisions is to update certain outdated tariff service charges and to clearly state the current practices of the Company with regard to line installation. These tariff page changes are appended as Appendix B hereto and made a part hereof.

D. Recoupment Surcharge

Staff and the Company agreed that a Rate Case Expense Recoupment Surcharge of a uniform amount per thousand pounds of steam use, calculated to reimburse the Company for its rate case expenses, should be collected over a period of time no less than twelve [12] months and no more than twenty-four [24] months. The Rate Case Expense Surcharge shall be subject to review by Staff and approval by the Commission before its implementation. When all approved rate case expenses have been recouped, the Company shall terminate the Surcharge and promptly file a reconciliation of the expenses with the revenues collected therefrom.

E. Reconciliation of Temporary and Permanent Rates

Because the additional revenues generated by the Company's temporary and permanent rates are approximately equal, the Staff and the Company agreed that there is no need for a temporary rate reconciliation refund or charge.

F. Bloomfield Associates Agreement

In response to the Staff's audit and subsequent discussions with the Staff, the Company executed an updated and amended Management Contract with Bloomfield Associates, P.C. [the Agreement] and filed the Agreement with the Commission in January, 1993. The Staff reviewed the Agreement and agreed that the terms are reasonable for purposes of RSA Chapter 366 relating to affiliates of public utilities.

III. COMMISSION ANALYSIS

Having reviewed both the Stipulation Agreement and the testimony of Staff and the Company at the March 10, 1993 hearing, we are persuaded that the terms of the stipulation and the revised tariff pages in Appendix B result in just and reasonable rates and are an acceptable resolution of the matters raised in this case, and appropriately balance the interests of ratepayers and the Company's investors under current economic circumstances. We note that the revenue increase requested by the Company, \$309,458, is considerably less than the \$458,209 amount

found permissible by the Staff. We find that the lesser revenue increase figure requested, the new rate design, and the handling of the recoupment surcharge are all appropriate and consistent with other Commission orders. We will instruct the Company, therefore, to file appropriate tariffs in accordance with this report.

Our order will issue accordingly.

Concurring: March 25, 1993

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ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the Rate Case Stipulation Agreement entered into between Concord Steam Corporation and Staff, which is appended hereto as Appendix A, and certain revised tariff pages, which is appended hereto as Appendix B, are hereby accepted, approved and adopted; and it is

FURTHER ORDERED, that all terms of the Rate Case Stipulation Agreement (including supporting schedules) and all terms of Appendix B are incorporated by reference and made a part of this order; and it is

FURTHER ORDERED, that Concord Steam Corporation file within ten days tariffs in accordance with the attached Report.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of March, 1993.

APPENDIX A

CONCORD STEAM CORPORATION STIPULATION AGREEMENT

This Agreement is entered into this 8th day of March, 1993, by and among the Concord Steam Corporation (the "Company") and the Staff of the Public Utilities Commission (the "Staff" and the "Commission," respectively), with the intent of resolving all of the issues that were raised or could have been raised in the above-captioned proceeding except as otherwise provided herein. Further, it is the desire of the Company and the Staff in executing this Agreement to expedite the Commission's consideration and resolution of the issues which are the subject of this Agreement.

ARTICLE I

INTRODUCTION AND PROCEDURAL HISTORY

1.0 This proceeding originates from the filing on August 21, 1992 by the Company of revised tariff pages designed to produce a permanent rate increase in annual revenues of \$310,429. The filing included the Company's prefiled testimony and exhibits.

1.1 The Company also filed on August 21, 1992 a petition for a temporary increase in annual revenues equal to the permanent increase with a requested effective date of October 1, 1992.

1.2 On September 14, 1992, the Commission issued Order No. 20,604, suspending the

Company's filed tariff pages. On October 8, 1992, the Commission issued an Order of Notice setting a hearing for October 21, 1992 to address the level of temporary rates and to develop a procedural schedule for permanent rates.

1.3 The temporary rate hearing was held on October 21, 1992 and both the Company and the Staff presented testimony and exhibits at the hearing.

1.4 On November 2, 1992, the Commission issued Order No. 20,658 approving the Company's requested temporary revenue increase, but requiring that such increase be implemented by "increasing each component of the existing rates by a uniform percentage."

1.5 Thereafter, in accordance with the procedural schedule established by the Commission in its Report accompanying Order No. 20,658, the Staff propounded two sets of data responses on the Company, the Company responded thereto, the Staff filed written testimony and exhibits, the Company propounded a set of data requests on Staff, and Staff responded thereto.

1.6 In addition, Staff conducted an audit of the Company's books and records following the temporary rate hearing, and after discussions with the Company during which the Company objected to some of the preliminary audit findings, Staff issued its final audit report.

1.7 The prefiled testimony of Richard B. Deres found a required basic annual revenue increase for the Company in the amount of \$437,956, and therefore, Staff supported the Company's requested increase of \$310,429. The prefiled testimony of Kenneth E. Yasuda, Sr. generally supported the Company's proposed rate design with some modifications.

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1.8 The Office of the Consumer Advocate has not filed an appearance or otherwise participated in this proceeding.

1.9 As a result of discussions held and information exchanged between representatives of the Staff and the Commission, including all testimony, exhibits, data requests and data responses, the Company and the Staff hereby stipulate and agree and recommend to the Commission that the issues in this proceeding be resolved in accordance with this Stipulation.

ARTICLE II

APPROVAL OF REVENUE INCREASE

2.0 The Company and the Staff hereby stipulate and agree that the Company is entitled to an annual increase in its base revenues of \$457,956. However, the Company agrees that it will file tariff pages in this proceeding designed to produce additional annual base revenues of only \$309,445, the approximate amount of its original request as filed with the Commission. The Company's total target revenue is agreed to be \$2,602,272, calculated as shown on Attachment A.

2.1 The Company and the Staff hereby stipulate and agree that:

A. The Company's rate base for rate making purposes is \$3,394,396;

B. The Company's test year proforma utility operating income (loss) is (\$110,559);
and

C. The Company's overall cost of capital during the test year was 9.51%, consisting of a cost of equity of 9.73%, a cost of long term debt of 7.67%, and a cost of short term debt of 8.13%.

2.2 The Company and the Staff stipulate to the weather normalization methodology employed by Staff in these proceedings and the adjusted steam volumes and revenue figures stemming from the application of said methodology to the test year.

2.3 The Company and the Staff acknowledge that the Company does not agree with some of Staff's adjustments to test year operating expenses and this Stipulation does not preclude the Company from seeking from the Commission different treatment of certain expenses in any future proceedings.

ARTICLE III

APPROVAL OF RATES

3.0 The Company and the Staff hereby stipulate and agree that the Company shall be entitled to charge the permanent rates set forth on the proposed sample tariff page attached hereto as Attachment B. As shown in Attachment C, the Company and the Staff stipulate and agree that the agreed rate is able to generate the revenue target of \$2,602,272.

3.1 The Company's General Usage (G) Rate shall be a step rate, which the Company's load factor analysis has shown to be cost-based, as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

First 500 M lbs. steam/month = \$10.68/M lbs.
 500-2000 M lbs. steam/month = \$9.72/M lbs.
 Over 2000 M Lbs. steam/month = \$8.53/M lbs.

3.2 The Company has not proposed a change in its Energy Cost Adjustment and the Company and the Staff agree that it shall not be changed by this proceeding. The Company and the Staff also agree that the Commission may review the Company's fuel usage reports on an annual basis to verify that the fuel changes are accurate and reasonable.

3.3 The Company shall also be permitted to collect a meter charge, based on the size of a customer's meter, as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Type "A" or "B" Meter	\$ 5/month for each meter in service
Type "C", "D" or "E" Meter	\$15/month for each meter in service
Type "F", "G" or Steam Flow Meter	\$25/month for each meter in service

3.4 The Company's new permanent rates, including the meter charge, shall be effec-

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tive on a bills rendered basis on the date of any Commission's order approving this Stipulation. The Company and the Staff respectfully request the Commission to issue such an order on or before March 31, 1993, if possible. The Company and the Staff agree that tariffs in compliance with the rates described herein be filed no later than fifteen (15) days after such

Commission order.

ARTICLE IV

RECOUPMENT SURCHARGE

4.0 The Company shall be permitted to collect a Rate Case Expense Recoupment Surcharge in a uniform amount per M lb. of steam used, calculated to reimburse the Company for its rate case expenses (provided that the Commission does not find that such expenses were not reasonably incurred) over a period of time no less than twelve months.

4.1 The Company shall file with Staff such documentation supporting its rate case expenses as Staff shall reasonably request and shall provide a calculation of the amount of the proposed surcharge for Staff's review.

4.2 The Company shall terminate the Recoupment Surcharge when all approved rate case expenses have been re-couped, and shall promptly thereafter file with the Staff a reconciliation of such expenses with the revenues collected pursuant to the surcharge.

ARTICLE V

RECONCILIATION OF TEMPORARY AND PERMANENT RATES

5.0 Because the additional revenues generated by the Company's temporary and permanent rates are approxi-mately equal, there is no need for a temporary rate reconciliation refund or charge.

ARTICLE VI

APPROVAL OF BLOOMFIELD ASSOCIATES AGREEMENT

6.0 In response to Staff's audit and discussions with Staff, the Company executed an updated and amended Management Contract with Bloomfield Associates, P.C. (the "Agreement") and filed the Agreement with Staff in January, 1993.

6.1 Staff has reviewed the Agreement and the Company and the Staff stipulate and agree that the terms thereof are reasonable and recommend that the Commission approve the Agreement for purposes of RSA Chapter 366 relating to affiliates of public utilities.

ARTICLE VII

GENERAL CONDITIONS

7.0 This Agreement is subject to the following general conditions:

A. The making of this Agreement establishes no principles or precedents affecting the Staff or any Party in any future proceedings.

B. The Commission's acceptance of this Agreement constitutes approval (a) of the Company's tariff rates as being just and reasonable pursuant to RSA 378:27 and 28, and (b) of the Management Contract between the Company and Bloomfield Associates pursuant to RSA Chapter 366.

C. The Company and the Staff stipulate and agree that their respective obligations hereunder are conditioned upon the Commission's acceptance and approval of all the terms of this Agreement. In the event the Commission does not accept and approve this

Agreement in its entirety, both the Company and the Staff shall have the right to rescind this Agreement, and in such case this Agreement shall not constitute a part of the record in this proceeding nor be used for any other purpose.

D. The discussions that have produced this Agreement have been conducted on

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the explicit understanding that all offers of settlement and discussion relating thereto shall be privileged, shall be without prejudice to the position of the Company or the Staff presenting any such offer or participating in such discussion, and are not to be used against the Company or the Staff in any manner.

IN WITNESS WHEREOF, the Company and the Staff have caused this Agreement to be duly executed in their respective names by themselves or their agents, each being fully authorized to do so on behalf of his or her principal.

CONCORD STEAM CORPORATION

By: Peter Bloomfield

STAFF OF PUBLIC UTILITIES COMMISSION

By: Amy Ignatius

ATTACHMENT A

Proformed revenue calculation using Staff's weather normalization factors and the requested revenue increase of \$309,445.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Actual firm revenue in test year	\$2,330,290
Concord Hosp. Special contract - new	\$83,340
Concord Hosp. 1991 sales	(\$79,604)
Concord Hosp. Buy out fee	(\$55,745)
Weather Normalization Adjustment	\$182,023
Subtotal	\$2,460,304
Correction to normalize actual fuel charge to listed tariff rate (\$5.24 to 4.55)	(\$167,477)
Proformed test year revenue	\$2,292,827
Revenue increase	\$309,445
Target revenue	\$2,602,272

ATTACHMENT B

NH PUC No. 2-Steam Revised Page No. 11 Concord Steam Corporation Superceding
Revised Page No. 11

RATES AND CHARGES

Service Classification G (General)

RATES

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Usage rate:
 First 500 M (1000) lbs per month \$10.68 per M lb
 All over 500 M lbs up to 2000 M lbs per month \$ 9.72 per M lb
 All over 2000 M lbs per month \$ 8.53 per M lb

Meter Charge:
 Meter Size
 Type A or B \$5 per month per meter in service.
 Type C, D or E \$15 per month per meter in service.
 Type F, G or Steam Flow \$25 per month per meter in service

Energy Cost Adjustment:

The bill for all steam delivered each month as stated above shall be increased or decreased by an amount per M pounds delivered computed as follows: the delivered cost of #6 oil used during the month covered by the bill, plus the delivered cost of wood fuel used during the month covered by the bill shall be divided by the total pounds of steam delivered to all customers during the same month (calculated to the nearest mill) ; the difference between the amount per M pounds of delivered steam and \$4.55 per M pounds will be charged or credited to the customer; provided, however, that no such Energy Cost Adjustment will be made unless the adjustment so calculated shall exceed two cents in which case the full amount of the charge or credit will be added or deducted as the case may be.

Terms:

Bills will be rendered within the first 15 days of each month for service during the previous month, shall be payable upon presentation and shall bear interest at the rate of 1-1/2% per month from the first of the following month on the unpaid balance.

Issued: Proposed

Effective: Proposed March 31, 1993

Issued by:

Peter G. Bloomfield

Title: President

Calculation of rates with revised target revenue and modified meter charge. The annual steam sales numbers are weather normalized. The amount of steam shown in each group is the annual amount of steam charged at that rate.

[TABLE TO BE SHOT]

Total Mlb

salesNumber of monthly meter charges	Annual Revenues old rates	Annual Revenues Base + fuel	Annual Revenues Meter charge	Annual Revenues Total
Group 1: 0-500	174,806	9781,604,71	91,866,928	4,8901,871,81
Group 2: 501-2000	66,862	527 613,793	649,899	7,905
Group 3: 2001+	8,095	144 74,312	69,050	3,600 72,650
TOTAL	249,7631	6492,292,82	42,585,877	16,3952,602,27

Tariff fuel charge

New base rate New Tariff Rate Old Tariff Rate Group 1: 0-5004.556.1310.689.18 Group 2:
501-20004.555.17 9.729.18 Group 3: 2001+4.553.98 8.539.18 Meter size class Monthly charge
Condensate Meter A+B 5 Condensate Meter C,D+E 15 Cond. Meter F,G+Steam flow 25

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Appendix B Page 1 of 3 Concord Steam Corporation NHPUC No. 2 Steam 3rd Revised Pg. No. 6 Superseding 2nd Revised Pg. No 6

at his expense.

7. Facilities to be furnished by the Customer and the Company. All service connections between the Company and a Customer are subject to the Company's approval both as to design and installation. *The Company will at its expense (a) install its service pipe from the Company's main through and into the Customer's structure(s) at such location as the Company may determine, (b) furnish a shut off valve, (c) furnish a pressure reducing valve adjustable to reduce its delivery pressure to a range of 15 to 50 pounds per square inch and (d) furnish a meter or meters to measure the Customer's use of steam except for Flat Rate Customers.* The locations of items (b), (c), and (d) shall be determined by the Customer or his heating engineer or plumber and the expense of their installation together with any necessary piping and fittings shall be borne by the Customer. *The facilities described above are considered to be "supply pipes" for purposes of the Company's Line Extension Policy as set forth in this tariff, and the obligation of the Company to pay for such facilities is limited as set forth in such policy.*

8. Other Facilities of Company. The Company shall have the right to install and maintain additional service pipes and equipment on the Customer's premises and through the walls of the Customer's building, such installation to be made entirely at the Company's expense, for the purpose of rendering service to other Customers of the Company and its own use. The Company agrees to indemnify the Customer for any damage done to the premises on account of making and maintaining such installation and to remove such service pipes and equipment and restore the premises at the termination of service if required by the Customer.

9. Facilities of the Company. Any and all pipes, meters, valves, fittings, equipment, and accessories supplied or installed by the Company shall be and remain the property of the Company and the Company shall have the right but not the duty to remove the same upon the discontinuance

Issued: March 10, 1993 Effective: April 10, 1993

By Peter G. Bloomfield, President

Appendix B Page 2 of 3 Concord Steam Corporation NHPUC No. 2 Steam 3rd Revised Pg. No. 9 Superseding 2nd Revised Pg. No 9

provided the meter is found to be inaccurate in excess of 3% to the Customer's disadvantage. *However*, if the meter is found to be not more than 3% inaccurate, the Customer shall pay to the Company its cost of making the test.

13. Service Calls. At the request of a Customer, the Company will investigate any heating problem on the Customer's premises which *they* may reasonably believe to be due to the

Company's facilities located upon *their* premises or its supply pipes. *If the problem is not directly attributable to the Company's facilities or method of operation, the Customer shall pay for the cost of the service performed and material supplied by the Company for repairing the Customer's facilities. A minimum charge of one hour of service technician's time at the Company's standard charge out rate will be paid by the Customer.*

14. *Steam Damage.* The Company shall not be liable for any damage resulting from the presence or use of steam upon the Customer's premises or the presence of its facilities thereon unless due to the Company's willful neglect or default. Neither by inspection nor by beginning or continuing service does the Company give any warranty, express or implied, as to the adequacy, safety or other characteristics of any of the Customer's equipment utilizing the Company's steam service.

15. *Change and Modification.* The rates, terms and conditions contained in this Tariff

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are subject to such change, modification or termination as may be provided in any legally authorized provision or supplement subsequently issued and becoming effective in accordance with law.

LINE EXTENSION POLICY

The company will upon written request where feasible and practicable

Issued: March 10, 1993 Effective: April 10, 1993

By

Peter G. Bloomfield, President

Appendix B Page 3 of 3 Concord Steam Corporation NHPUC No. 2 Steam 2nd Revised Pg. No. 12 Superseding 1st Revised Pg. No 12

The Calculation of the fuel charge shall be reported each month to the Public Utilities Commission and the charge so reported shall govern the billing for that month, but in no case shall the provisions of this clause apply except on the basis of the report filed with the Public Utilities Commission.

Flat Rate:

A flat unmetered rate may be charged wherever steam usage is low and is furnished for purposes other than space heating. If the appliances specified in the application for service and the probable amount of their use will result in an average consumption of less than 5,000 pounds of steam per month, service will be rendered without metering at a price equal to the bill for 5,000 pounds of steam per month. The Company will, at least once each calendar year, check the appliances and use. *If in the Company's estimation the probable use will exceed an average use of 5,000 pounds per month, a meter shall be installed and the meter rate shall be applied.*

Turn-on Charge:

When service has been shut off for just cause, *the Customer will be charged for restoring service. The minimum service charge will be one hour of service technician's time at the*

Company's standard charge out rate.

Terms:

Bills will be rendered within the first 15 days of each month for service during the previous month. *The bills* shall be payable upon presentation and shall bear interest at the rate of 1-1/2% per month from the first of the following month on the unpaid balance.

Issued: March 10, 1993 Effective: April 10, 1993

By

Peter G. Bloomfield, President

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NH.PUC*03/25/93*[75036]*78 NH PUC 181*Granite State Electric Company

[Go to End of 75036]

Re Granite State Electric Company

DR 92-161

Order No. 20,798

78 NH PUC 181

New Hampshire Public Utilities Commission

March 25, 1993

1993-1994 Conservation and Load Management Program; Report and Order Accepting Settlement Agreement.

Appearances: David J. Saggau, Esq. on behalf of Granite State Electric Company; Armond M. Cohen, Esq. on behalf of the Conservation Law Foundation; Susan Chamberlin, Esq. on behalf of the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On October 1, 1992, Granite State Electric Company ("Granite State Electric," "GSEC," or "company") filed with the New Hampshire Public Utilities Commission ("commission")

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its proposed 1993-1994 Conservation and Load Management ("C&LM") Program.

On October 14, 1992, the commission issued an Order of Notice setting a prehearing conference for October 28, 1992.

On October 28, 1992, the commission held the duly noticed prehearing conference. The Conservation Law Foundation ("CLF") moved to intervene. On November 12, 1992, the commission issued Report and Order No. 20,666 accepting the procedural schedule put forth by the New Hampshire Public Utilities Commission staff ("staff") and the company and granting CLF's motion to intervene.

On December 11, 1992, Jonathan Osgood, Director of the Governor's Office of Energy and Community Services ("Governor's Office") requested intervention as an "interested party", which the commission granted.

A series of technical sessions and settlement discussions were held in accordance with the procedural schedule. On December 31, 1992, CLF filed the testimony of Cort Richardson and on January 4, 1993, staff filed the testimony of George R. McCluskey.

On January 20, 1993, the commission held a hearing on the merits at which staff, the company and CLF submitted a comprehensive offer of settlement (the "Settlement") addressing all issues in this proceeding, including the budget, program design, incentive, and rate recovery for Granite State Electric's 1993-1994 C&LM Program.

On February 4, 1993 the commission issued Order No. 20,742 accepting the Settlement as proposed by staff and the parties. Due to the short time period between the hearing and the proposed program implementation date, the commission stated its final report containing a description of its analysis would be issued in due course. This report contains that analysis.

II. *POSITION OF THE PARTIES AND STAFF*

A. Granite State Electric Company

Granite State's 1993-1994 C&LM filing requested commission approval for five residential and three commercial and industrial ("C&I") programs. The five residential programs are: 1) Electric Space Heating, which installs weatherization and other conservation measures in the homes of customers with electric heat; 2) Residential Lighting, which sells efficient compact fluorescent lamps at reduced prices; 3) Home Energy Management, which cycles customers' water heaters to shift load to off-peak hours; 4) Energy-Crafted Homes, which promotes efficiency in the design and construction of new homes; and 5) Multi-Family Retrofit, a new program which installs a variety of conservation measures in electrically-heated multi-family buildings of five or more units.

The proposed C&I programs are: 1) Design 2000, which encourages efficiency in new construction, renovation, remodelling and replacement of failed equipment; 2) Energy Initiative, which encourages the replacement of existing equipment with more efficient equipment; and 3) the Small C&I Program which installs conservation measures in the facilities of C&I customers with average monthly demands of less than 50 kilowatts or annual energy use of less than 150,000 kilowatt-hours.

The company's proposed budget for its C&LM program is \$2.8 million per year for new business in 1993 and 1994, with a total budget of \$3.3 million in 1993 which reflects carry-over from the 1992 program year, and costs associated with the 1993 program. The company proposed a uniform cents per kilowatt-hour factor of \$.00391, a reduction from the currently effective C&LM factor of \$.00805.

B. The Conservation Law Foundation

The CLF supports the company's filing stating that in several key areas the company has made substantial progress in 1992 in improving program effectiveness, serving the residential market, and expanding state-of-the-art evaluation and monitoring activities. The CLF believes that the company's proposed 1993-1994 C&LM program continues to push the state-of-the-art program design in several areas and that the company should be awarded incentives on its programs.

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C. Staff

Staff expressed concerns over several aspects of the company's proposal. First, staff expressed concerns with the implementation of its new program, the Multi-Family Retrofit Program which has a low benefit/cost ratio while scaling back the Home Energy Management Program which has a higher benefit/cost ratio. Second, staff expressed concern that a two-year approval of the company's program designs, budgets and incentive mechanisms for new business could prevent staff from proposing any changes until the company's 1995 program year. Third, staff recommended that the company implement separate conservation factors for the residential and the C&I customers as opposed to a uniform cents per kilowatt-hour factor applied across the customer classes as proposed by the company. Fourth, staff discussed the importance of cost-reflective retail pricing to effective C&LM programs, an issue which was addressed in the company's recent rate case in Docket No. DR 92- 084. Fifth, staff expressed opposition to the company's proposal that it be allowed to adjust rebate levels for any measure in the Energy Initiative and Design 2000 programs by 20 percent to respond to customer participation and acceptance levels during the program years. Staff believes that the rebate levels as proposed by the company should be given a chance to succeed and that the company should not be allowed to increase rebates at the first sign of customer opposition. Sixth, staff supported the company's proposed continuance of the company's maximizing and efficiency incentive mechanisms which were used in the 1992 program. It should be noted however, that staff supported this continuation only for the 1993 program year due to its opposition to the company's request for a two-year approval of its programs. Seventh, staff recommended that recovery of the company's 1993 maximizing incentive should be deferred until 1994, that Granite State Electric's value guarantee currently in place on an aggregate program level should be extended to individual programs, and that maximizing incentives should not be earned on value created by individual programs which are not cost-effective on a one-year basis. Finally, staff recommended that the commission establish an appropriate accounting methodology to reflect the sulfur dioxide allowances the company will receive under the Clean Air Act Amendments of 1990 for its C&LM programs.

III. THE SETTLEMENT

The Settlement document contains a proposed resolution of the following areas: the program budget; a two-year program approval; the company's conservation factor; the budget level for the home energy management program; flexibility concerning proposed rebate levels; approval of a maximizing incentive; the company's value guarantee; proposed financing options and a method

of accounting for conservation credits.

IV. COMMISSION ANALYSIS

The company's proposed programs are a continuation of those approved by this commission in *Re Granite State Electric Company*, 76 NH PUC 820 (1991), with the addition of a new residential program, the Multifamily Retrofit program. This additional residential program addresses in part the commission's ongoing concern that residential customers have enough opportunities to directly participate in conservation programs.

The increased budget level for the Home Energy Management program as recommended by staff and adopted by the parties in the Settlement also improves opportunities for residential participation and the resulting direct savings. Exh. 5 at 7. The commission directs the company to continue its efforts to increase residential participation and finds that the residential programs described here address commission concerns raised in our investigation of GSEC's 1991 and 1992 filings. *See Re Granite State Electric Company*, 76 NH PUC 495 (1991); *Re Granite State Electric Company*, 76 NH PUC 820 (1991).

We have also been concerned about the equity of recovering C&LM program costs through a uniform cents per kilowatt-hour

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charge when program expenditures are not uniform across classes. *Re Granite State Electric Company*, 76 NH PUC at 8. All customers benefit from the conservation programs because the system savings that result from those programs are reflected in lower rates to all classes. However, it is a fact that the higher benefit/cost ratios of C&I programs have resulted in greater opportunities for C&I customers to participate in and benefit from the company's conservation expenditures. The Settlement addresses this inequity by creating two separate conservation factors: one for the residential customers to recover the costs of residential programs and one for the C&I customers to recover the costs of C&I programs. Exh. 5 at 6. However, the Settlement does allow the company to continue to recover its earned incentive with a uniform cents per kilowatt-hour charge. Exh. 5 at 6-7. Where there are system benefits to all customers regardless of participation, we find that this means of incentive recovery equitably accounts for such benefits. Therefore, we find that the Settlement adequately addresses our concern that residential customers have fewer opportunities to participate and thus should be allocated costs in relation to benefits received.

The 1993 budget levels for both the residential and C&I programs contained in the Settlement are reduced from the amount spent in 1992. Exh. 5 at 5. The 1994 budget reflects the same level of spending for new business as is included in the 1993 budget, i.e., \$2.8 million. Exh. 1 at 23. We find that the proposed spending levels are appropriate for a company of the size of GSEC and at this stage of C&LM development. The amounts provided for new business will ensure that non-participants still have opportunities to become participants. We therefore approve of the budget levels as described in the attached Settlement.

We also approve of the two-year program filing because of the maturity of GSEC's conservation programs. Exh. 5 at 6. The two-year program design will provide continuity for the company and its customers. The Settlement contains a fall back provision which allows any

party to raise any policy or program design issue regarding the 1994 programs should the need arise. Since this fall back provision protects staff's or any intervenor's rights, we find that the two-year filing proposal is efficient and in the public interest.

The Settlement proposes we grant the company some flexibility in changing its rebate levels to participating C&I customers. Exh. 5 at 7. The commission finds that allowing the company to decrease rebate levels without formal approval but allowing for staff participation and commission resolution of disagreements regarding increases in rebate levels is reasonable. We accept the proposal as described in the Settlement. We also find that considering rebate increases due to financial hardship of a potential participant should be considered on a case by case basis as described in the Settlement in lieu of the other financing options proposed in the company's original filing. Exh. 5 at 9-10.

Turning to consideration of the maximizing incentive, we agree with the proposed Settlement that the company should be allowed a maximizing incentive only on those programs which are cost effective in the year in which the maximizing incentive is calculated. Exh. 5 at 8. We also support the provision that any incentive earned should be collected in the year following its accrual. Exh. 5 at 8. This is consistent with our policy that performance must be demonstrated before incentives are paid.

The Settlement proposes GSEC shall amend its total program value guarantee such that it applies instead to residential and C&I programs separately. As a result, GSEC will be allowed full recovery of all expenses associated with any individual residential program as long as in the aggregate residential programs create value in excess of GSEC's costs for residential customers. If residential programs in the aggregate are not cost effective, cost recovery will be limited to the value created. The same guarantee also applies to GSEC programs. We find that the amended guarantee gives the ratepayer greater assurance that GSEC will not pursue programs that have a high risk of subsequently proving to be uneconomic. We accept the value guarantee as proposed.

The final issue addressed in the Settlement is the accounting for any conservation credits generated by the company's C&LM programs.

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Exh. 5 at 10. Pursuant to the Settlement we direct the company to include in its 1994 proposal a means for accounting for these kinds of allowances. Should the commission open a generic docket on the accounting for C&LM allowances the company may file the information in that context. We will direct other companies to include proposals in their C&LM filings as well.

The commission has evaluated GSEC's 1993 C&LM proposals based on our prior investigation into DR 91-128, *Re Granite State Electric Company*, 76 NH PUC 820 (1991), the company's 1992 filing, Exh. 1, staff testimony, Exh. 2, testimony from CLF, Exh. 3, the company responses to staff data requests, Exh. 4, the Settlement document, Exh. 5, and the testimony provided at the January 20, 1993 hearing on the merits. We find that the programs proposed, as modified and implemented under the terms of the Settlement, are an integral and necessary part of the company's least cost resource procurement strategy. The commission confirms its acceptance of the Settlement and issues this Report in support of Order No. 20,742 (February 4, 1993).

V. FURTHER COMMISSION ANALYSIS

The Federal Energy Policy Act of 1992 ("Energy Act") amends, *inter alia*, section 111 of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), 16 U.S.C. § 2601 and following, to add section 111(d)(8) on "Investments in Conservation and Load Management" and sections 111(c)(3)(A) and (B), on the impact of section 111(d)(8) on small businesses engaged in energy efficiency services.

Referring to section 111(d)(8) we believe that our current demand side management investigation allows rates to be charged "...such that the utility's investment in and expenditures for energy conservation, energy efficiency resources, and other demand side management measures are at least as profitable...as its investments in and expenditures for the construction of new generation, transmission and distribution equipment." PURPA section 111(d)(8), 16 U.S.C § 2621, as amended by The Energy Act. We also believe that GSEC appropriately monitors and evaluates its energy efficiency measures. *Id.*, See Exh. 1 at 120-192.

Referring to sections 111(c)(3)(A) and (B), this commission is aware of the potential impact on small businesses of utility sponsored C&LM programs. 16 U.S.C. § 2621, *as amended*. In this docket we received a letter from a small business owner expressing his concern over unfair trade practices. Letter from Maurice Lamy, RPL Energy Enterprises, Inc. to Mr. Wynn Arnold, Executive Director of the New Hampshire Public Utilities Commission (November 4, 1992). The commission responded to Mr. Lamy explaining that the work for Granite State C&LM programs is done by unaffiliated, independent vendors that are selected through a competitive bid process in which all Energy Services Companies may participate. Letter from Thomas C. Frantz, Electric Utility Analyst for the New Hampshire Public Utilities Commission to Maurice Lamy, RPL Energy Enterprises, Inc. (November 19, 1992). We believe that the competitive bidding process used by Granite State and other New Hampshire utilities ensures that small businesses providing energy efficient services have opportunities to bid for C&LM program installations and therefore utilities are not provided with unfair competitive advantages.

However, because the Energy Act was passed during our investigation of this company's C&LM filing, we did not investigate this aspect of the process in the precise terms described by the amendments. PURPA Section 111(a) directs state commissions to consider each standard established by subsection (d)¹⁽¹⁹⁾ and make a determination as to whether it is appropriate for states to implement the standard. 16 U.S.C § 2621(a). Commission deadlines for this consideration are found in the Energy Act's amendment to PURPA section 112(b) which directs the state commission to begin its consideration of these standards not later than two years after the enactment of the Energy Policy Act, which was on October 24, 1992, or set a hearing date for such consideration. 16 U.S.C. § 2622(b)(1), *as amended*. The commission must make its determination with respect to each standard established by section 111(d) not later than three years from the

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enactment of the Energy Act. 16 U.S.C. § 2622(b)(2), *as amended*.

PURPA section 112(a) allows the commission to consider section 111(d) standards "...in any

proceeding respecting the rates of the electric utility." 16 U.S.C. § 2622(a). We believe that GSEC's next C&LM filing is an appropriate place to consider the Energy Act's amendments to PURPA regarding demand side management. Pursuant to the terms of the Settlement, GSEC will be filing its proposed 1994 C&LM factor on or before October 1, 1993 and its next full filing in October 1994. Although the full October 1994 filing will meet the federal deadline it does so by a very slim margin. Therefore, we direct the company to provide information in its 1993 filing which will allow the commission to compare the profit derived from rates charged for energy conservation investments to those derived from expenditures for the construction of new generation, transmission, and distribution equipment. We also direct the company to provide information on the impact of implementing the Energy Act amendments to PURPA in section 111(d)(8) on small energy services businesses as referred to in sections 111(c)(3)(A) and (B). As part of our review we will make the findings required by PURPA section 111(a) and (b). We will direct other companies to provide similar information in their C&LM dockets.

Our order will issue accordingly.

Concurring: March 25, 1993

ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that Granite State Electric Company comply with the directives of this Report concerning the Federal Energy Policy Act of 1992; and it is

FURTHER ORDERED, that the findings contained in this Report are issued in support of commission Order No. 20,742 (February 4, 1993) accepting the Settlement Agreement proposed by staff and the parties on January 20, 1993.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of March, 1993.

FOOTNOTES

¹Section 111(d) includes section 111(d) (8) described above and implicitly sections 111(c)(3)(A) and (B) as they refer to the implementation of any standard accepted from section 111(d).

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NH.PUC*03/25/93*[75037]*78 NH PUC 187*Theodore and Sharon Wroblewski, d/b/a Bernerhof Inn and Restaurant v. Birchview by the Saco, Inc.

[Go to End of 75037]

**Theodore and Sharon Wroblewski, d/b/a Bernerhof Inn and Restaurant
v. Birchview by the Saco, Inc.**

DC 91-127
 Order No. 20,799
 78 NH PUC 187

New Hampshire Public Utilities Commission

March 25, 1993

Report and Order Approving Negotiated Settlement of Consumer Complaint.

Appearances: Cooper, Deans and Cargill by Dorcas H. Deans, Esq. on behalf of Theodore R. and Sharon E. Wroblewski; Brown, Olson and Wilson by Paul A. Savage, Esq. on behalf of Birchview by the Saco, Inc.; and Dean S. Mattice, Consumer Assistance Director, on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. BACKGROUND.

On February 5, 1990, Birchview by the Saco, Inc. (the Company), a public water utility pursuant to RSA 362:2, filed a petition pursuant to RSA chapter 378 to increase its annual revenues by \$17,120.00. On February 28, 1990, the Commission issued Report and Order No. 19,734 suspending the proposed rate increase for investigation pursuant to RSA 378:6, I.

In its testimony in support of its proposed rate increase the Company stated that one of its customers, the Bernerhof Inn and Restaurant (the Inn), the Company's sole commercial customer, was provided water free of charge in

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consideration of the transfer of certain parcels of real estate to the Company.

1⁽²⁰⁾ In recognition of this agreement, the Company reduced its revenue request to reflect its estimate of that portion of the total revenue requirement which should be allocated to the Inn. The Company's original proposal allocated 5% of its revenue requirement to the Inn.

The Staff of the Commission (Staff) proceeded to conduct discovery into the Company's requested rate increase and filed its recommendations to the Commission on rates and rate design in the form of "prefiled testimony" on October 23, 1990. In its testimony the Staff took the position that the Inn should be allocated 37% of the Company's allowed revenues as it accounted for 37% of the system's usage. Staff also objected to the provision of free service to the Inn as it appeared to contravene the proscription on free and discriminatorily priced service delineated in RSA 378:14.

After discovery and the submission of prefiled testimony, the Staff and the Company entered into a stipulation on rates and rate design. Pursuant to the stipulation, it was agreed that the Company could institute rates resulting in a 9.15% increase in revenues (from \$17,397.00 to \$18,988.00).

Pursuant to the agreement, however, the Company was to file tariffs reflecting a rate design that allocated 22% of its revenue requirement to the Inn. The stipulation further stated that although Staff believed the proper allocation of revenues would require the Inn to account for 37% of the Company's annual revenue requirement, it would stipulate to the use of an allocation factor of 22% because the loss of such a large percentage of revenues by the Company would threaten its financial viability. This allocation was conditioned, however, on the filing of a tariff by the Company setting a rate for the Inn based on 22% of the Company's annual revenue requirement. The Company also agreed to bill the Inn at the tariffed rate and pursue all avenues of recourse to obtain payment.

On February 22, 1991, the Commission issued Report and Order No. 20,064 (the Rate Order) accepting and adopting the stipulation. *Re Birchview by the Saco, Inc.*, 76 NH PUC 100, (1991).

On February 23, 1991, the Company filed compliance tariffs pursuant to the Rate Order which established a flat annual rate of \$5,011.20 billable on a quarterly basis in arrears for water service to the Inn. On March 8, 1991, the Company sent Theodore and Sharon Wroblewski, owners of the Inn, a quarterly bill for \$1,252.00 for the Inn's water usage. On April 23, 1991, the Company forwarded a notice of disconnection to the Wroblewskis for their failure to pay the March 8, 1991 bill.

II. PROCEDURAL HISTORY.

On May 1, 1991, the Wroblewskis filed a consumer complaint pursuant to RSA 365:1 with the Commission. The complaint alleges that the Inn has never received "free" service because the Wroblewskis' predecessor in interest had given consideration in the form of real estate to the Company in exchange for water service at "no cost". This agreement is memorialized in a deed dated May 17, 1977, on file at the Carroll County Registry of Deeds at Book 580, Page 176. The complaint requests a stay of disconnection of service pending a hearing before "the Public Utilities Commission and pending a resolution of the Wroblewskis' request for injunction in the Carroll County Superior Court...." The complaint goes on to request reconsideration of Report and Rate Order No. 20,064 to provide that the Company, rather than the Inn, be responsible for the Inn's allocable share of the Company's revenue requirement.

On August 27, 1991, the Commission scheduled a hearing to address the complaint. The hearing was postponed to December 17, 1991. A hearing was held on December 17, 1991, where the Inn and the Company (the parties) presented arguments in support of their positions.

Subsequently, the Parties informed the Commission that they had entered into settlement discussions which might negate the need for a Commission decision on any of the issues raised herein, including jurisdiction.

On November 18, 1992, the Parties filed a "negotiated agreement" with the Commission, attached hereto as Appendix A.

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III. NEGOTIATED AGREEMENT.

Pursuant to the Parties' agreement, in pertinent part, the Company will pay the Wroblewskis

\$12,500 pursuant to a note payable over a two year period for two parcels of land located in the Company's development and the water rights which were the subject of a 1974 agreement between the Company and the Wroblewskis' predecessor in interest, and the Inn will no longer receive "free" service from the Company but will use a private well.

IV. COMMISSION ANALYSIS.

The Commission finds the proposed agreement to be just and reasonable and will issue an order accordingly.

However, the Company shall not include the note in its computation of the cost of capital nor shall it include the assets it received in exchange for the note in ratebase as these assets are not "used and useful in the public service." RSA 378:27. Furthermore, as the two parcels of land referenced above were necessary for subdivision purposes and have no relationship to the water utility, we will remind the Company of the requirement imposed in 1991 that the development company and the water utility be reorganized into separate entities.

Our order will issue accordingly.

Concurring: March 25, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the negotiated agreement attached hereto as Appendix A is adopted as just and reasonable; and it is

FURTHER ORDERED, that Birchview by the Saco, Inc. shall file revised tariff pages to reflect the loss of the Bernerhof Inn as a customer.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of March, 1993.

FOOTNOTES

¹ Birchview by the Saco, Inc. is a corporation engaged in the business of providing water to the public and developing real estate. As part of the resolution of the rate case the company agreed to separate its real estate and utility interests into separate entities.

Appendix A

SETTLEMENT AGREEMENT

This agreement (the "Agreement") made this *25th* day of October, 1992 Between Birchview By The Saco, Inc. ("Birchview"), a Rhode Island corporation with a principal place of business in Bartlett, New Hampshire and Theodore R. Wroblewski and E. Sharon Wroblewski (collectively referred to as the "Wroblewskis").

WITNESSETH:

WHEREAS, Birchview is a public utility regulated by the New Hampshire Public Utilities Commission ("PUC");

WHEREAS, the Wroblewskis own and operate the Bernerhof Inn located in Bartlett, New Hampshire;

WHEREAS, on or about September 6, 1974, Birchview and Hermann Pfeuti, the predecessor in interest to the Wroblewskis, executed a conditional deed (the "1974 Deed") which stated that Birchview would receive title to two small parcels of land, and certain water rights located on land owned by Birchview as long as Birchview agreed to provide, among other things, water to the Bernerhof Inn free of charge to Bernerhof;

WHEREAS, on or about February 22, 1991, the PUC ordered Birchview to charge for water provided to the Bernerhof Inn according to the rates approved by the PUC;

WHEREAS, on or about March 6, 1991, Birchview submitted an invoice to the Wroblewskis for water services provided to the Bernerhof Inn;

WHEREAS, on or about May 1, 1991, the Wroblewskis filed a complaint with the PUC, referenced as Theodore R. Wroblewski and E. Sharon Wroblewski v. Birchview By The Saco, Inc., Docket No. DC 91-127 which asserted that as owners of the Bernerhof Inn, they had a

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right to water at the expense of Birchview under the 1974 Deed;

WHEREAS, on or about May 3, 1991, the Wroblewskis filed a bill in equity, Theodore R. Wroblewski and E. Sharon Wroblewski v. Birchview By The Saco, Inc., Docket No. 91-E-053, with the Carroll County Superior Court (the "Court") requesting that the Court permanently enjoin Birchview from charging the Wroblewskis for water supplied to the Bernerhof Inn;

WHEREAS, on or about October 11, 1991, Birchview filed a counterclaim with the Court asserting a claim against the Wroblewskis for refusing to pay for water services provided to the Bernerhof Inn by Birchview; and

WHEREAS, Birchview and the Wroblewskis desire to settle the issues arising out of the above mentioned cases.

THEREFORE, in consideration of the foregoing premises and of the mutual agreements of Birchview and the Wroblewskis, set forth below, Birchview and the Wroblewskis agree as follows:

1. Birchview agrees to execute the Promissory Note attached hereto as Exhibit A which states that Birchview shall pay the Wroblewskis a total sum of twelve thousand five hundred dollars (\$12,500.00) payable in equal quarterly installments over a two (2) year period. The first quarterly payment of one thousand five hundred sixty-two dollars and fifty cents (\$1,562.50) shall be due and payable thirty (30) days after the date of the PUC's final order approving this Agreement. The 2 remaining seven payments of one thousand five hundred sixty-two dollars and fifty cents (\$1,562.50) each shall be due and payable every ninety (90) days thereafter.

2. Birchview agrees to provide the Wroblewskis with security that the twelve thousand five hundred dollars (\$12,500.00) will be paid and will execute the mortgage attached hereto as Exhibit B.

3. The Wroblewskis agree to transfer to Birchview their remaining interest in the two parcels of land and the water rights referenced in the 1974 Deed and to execute the deed attached hereto as Exhibit C within thirty (30) days after the date of the PUC's final order approving this Agreement.

4. The Wroblewskis will not require Birchview to provide water services to the Bernerhof Inn as of the date of the PUC approval whether pursuant to the 1974 Deed or otherwise because the Wroblewski have an independent water source.

5. The Wroblewskis also agree that as of the date of the PUC's approval of this Agreement, the Wroblewskis will no longer be a customer of Birchview, and Birchview will have no further obligation to provide water services to the Bernerhof Inn.

6. The Wroblewskis and Birchview agree that if the Wroblewskis subsequently desire Birchview to provide water services to the Bernerhof Inn, the Wroblewskis will petition the PUC to approve the Wroblewskis as an additional customer of Birchview.

7. Birchview and the Wroblewskis agree to execute the release and stipulation for docket markings attached hereto as Exhibits D and E, respectfully.

8. This Agreement shall be effective upon approval by the PUC and the Court. After the parties execute this Agreement, Birchview shall submit the executed Agreement to the PUC and the Court for their approval, it being agreed that the approval by both the PUC and the Court is an express condition of this Agreement and that no obligations on the part of any party to this Agreement, other than those stated in this paragraph shall arise until such approval shall be granted.

9. This Agreement and its Exhibits constitute the entire agreement and supersedes all prior agreements, representations, warranties, statements, promises, and understandings, whether written or oral, with respect to the subject matter hereof, and cannot be changed or terminated except by a further written instrument signed by the parties.

10. This Agreement shall be construed as to validity, performance and enforcement under the laws of the State of New Hampshire.

11. This Agreement may be executed in any number of counterparts, each of which, when executed, shall be deemed to be an original and all of which together shall be deemed one and the same instrument.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the date noted above.

BIRCHVIEW BY THE SACO, INC

Dated: October 25, 1992 By: Carlton Bacon President

Dated: November 4, 1992 By: Theodore R. Wroblewski

Dated: November 16, 1992 By: E. Sharon Wroblewski

STATE OF Rhode Island) COUNTY OF NEWPORT) ss.

On this 25th day of October, 1992, before me personally appeared Carlton Bacon, President of Birchview By The Saco, Inc., who is known to me personally or has satisfactorily proven his identity and who acknowledges that he did execute the foregoing Settlement Agreement and that the same is his free act and deed.

Priscilla McCarthy

Notary Public

Exp. 6/93

STATE OF New Hampshire) COUNTY OF Carroll) ss.

On this 4th day of November, 1992, before me personally appeared Theodore R. Wroblewski who is known to me personally or has satisfactorily proven his identity and who acknowledges that he did execute the foregoing Settlement Agreement and that the same is his free act and deed.

Cheryl A. Clemons

Notary Public

My Commission Expires August 22, 1995

STATE OF NEW HAMPSHIRE) COUNTY OF Carroll) ss

On this 16th day of November, 1992, before me personally appeared E. Sharon Wroblewski who is known to me personally or has satisfactorily proven her identity and who acknowledges that she did execute the foregoing Settlement Agreement and that the same is her free act and deed.

Dorcas H. Deans

Justice of the Peace

EXHIBIT A

PROMISSORY NOTE

Principal Amount Concord, N.H. \$12,500.00 October 25, 1992

FOR VALUE RECEIVED, the undersigned, BIRCHVIEW BY THE SACO, INC. (the "Undersigned") promised to pay to the order of THEODORE R. WROBLEWSKI AND E. SHARON WROBLEWSKI (the "Payee"), as joint tenants with rights of survivorship, or their order, the sum of TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500.00) in lawful money of the United States of America, said principal to be paid in eight (8) consecutive quarterly installments in the amount of ONE THOUSAND FIVE HUNDRED SIXTY-TWO DOLLARS AND FIFTY CENTS (\$1,562.50), with the first quarterly installment due and payable thirty (30) days after the date of the New Hampshire Public Utilities Commission's Final Order approving the Settlement Agreement (the "Agreement") dated of even date, entered into by and between the Payee and the Undersigned. The remaining seven (7) payments shall be due and payable every ninety (90) days thereafter.

This note is issued pursuant to the Agreement and this note and the indebtedness represented thereby is subject to all the provisions of said Agreement. This note is secured by a Mortgage of

even date herewith of property located in Bartlett, New Hampshire, as more particularly described in said Mortgage.

Should default be made for more than thirty (30) days in the payment of the principal when due on this note, [or the performance of any condition of the mortgage given as security for this note,] the whole sum of principal remaining unpaid shall become immediately due and payable upon notice to the Undersigned, at the option of the holders of this note.

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In addition, this note shall, at the option of the Payee, become immediately due and payable in full, upon the occurrence of any of the following events, each of which shall constitute a default hereunder if after thirty (30) days notice the Undersigned has not remedied the default: (1) the dissolution, business failure or termination of existence of Undersigned; (2) the insolvency or the execution of any assignment for the benefit of creditors of Undersigned or the appointment of a receiver of any property of Undersigned; or (3) the filing by or against Undersigned of a petition under the Federal Bankruptcy Act or the insolvency laws of any state or any law intended for the relief of debtors.

If any payment shall remain unpaid for a period in excess of ten (10) days, from the due date thereof, the Payee shall notify the Undersigned of such non-payment and the Payee may impose upon the Undersigned a delinquency charge calculated at the rate of ten percent (10%) per annum on each installment of principal not paid on or before the tenth (10th) day after such installment is due, to continue accruing until paid in full.

No forbearance of any holder of this note or the Mortgage securing the same shall be deemed a waiver of any rights such person or persons may have under this note or the Mortgage securing this note. The Undersigned agrees to pay all reasonable expenses, including reasonable attorney's fees, incurred by Payee in connection inwith the collection of this note.

Should the property which secures the payment of this note be sold or otherwise transferred, at involuntary of judicial sale or otherwise, or if any part thereof should be so transferred, Payee reserves the right, at their option, to declare the entire indebtedness secured hereby due and payable.

Should any payment required in the Mortgage securing this note not be made in accordance with the terms of said Mortgage, Payee may advance said amount and add said payment to the principal hereof.

This note shall be enforced and construed in accordance with the laws of the State of New Hampshire.

WITNESS my hand and seal this 25th day of October, 1992.

BIRCHVIEW BY THE SACO, INC.

Priscilla A. McCarthy Carlton Bacon WITNESS President

EXHIBIT B
MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, that Birchview By The Saco, Inc., a Rhode Island corporation with a principal place of business in Bartlett, New Hampshire, hereinafter called Mortgagor, for consideration paid, grants to Theodore R. Wroblewski and E. Sharon Wroblewski of Bartlett, New Hampshire, as joint tenants with rights of survivorship hereinafter called Mortgagee, with Mortgage Covenants, to secure the payment of a certain promissory note in the amount of \$12,500.00 of even date herewith and the performance of all the agreements and conditions as provided in said note the certain parcel of land located in Bartlett, New Hampshire, Carroll County, New Hampshire and described more particularly on Schedule A, attached hereto.

The Mortgagors will pay the indebtedness at the time and in the manner as provided in the promissory note of even date and will perform all covenants and conditions of the promissory note of even date.

Mortgagor shall promptly pay all municipal taxes when due and any other charges against the property whether pursuant to government authority or any power vested in a home owners association or similar entity by virtue of covenants running with the property herein conveyed.

This Mortgage is upon the statutory conditions, for any breach of which the Mortgagee shall have the statutory power of sale.

Dated this 25th day of October, 1992.

BIRCHVIEW BY THE SACO, INC.

By:

Carlton Bacon

President

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STATE OF RHODE ISLAND) COUNTY OF NEWPORT) ss.

On this 25th day of October, 1992, before me, personally appeared Carlton Bacon, President of Birchview By The Saco, Inc., who is known to me personally or has satisfactorily proven his identity and who acknowledges that he did execute the foregoing Mortgage and that the same is his free act and deed.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Priscilla A. McCarthy

Notary Public

My Commission Expires: 6/93

SCHEDULE A

Description of a parcel of land in Bartlett, N.H.

Property of Birchview by the Saco, Inc., Middletown, Rhode Island.

Lot #57

A certain tract or parcel of land situate in Glen, Town of Bartlett, County of Carroll, and State of New Hampshire, and shown as Lot #57 on a plan entitled: "Birchview by the Saco, Bartlett, N.H. - Surveyed by Roger S. Burnell, Conway, N.H.". said plan recorded Carroll County Registry of Deeds in plan book 26, page 3, and said Lot #57 bounded and described as follows:

Beginning at an iron pipe at the East side of Spruce Drive, said iron pipe being at the Southwest corner of land row or formerly of Crawford (Lot #58), and at the Northwest corner of Lot #57 herein described;

Bearing South 63° 30' East, by said Lot #58, 256.6 ft. to an iron pipe on the West line of land now or formerly of the heirs of Claira Zumstein;

Thence South 20° 45' West, by land now or formerly of said Zumstein heirs, app. 90 ft. to a point at the Northeast corner of Lot #56;

Thence North 63° 30' West, by said Lot #56, app. 260 ft. to a point at the East side of said Spruce Drive;

Thence Northeasterly, by said Spruce Drive, app. 90 ft. to the bound begun at.

Containing app. 0.5 acre.

EXHIBIT C QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

That we, Theodore R. Wroblewski and E. Sharon Wroblewski of the Town of Bartlett, County of Carroll and State of New Hampshire, for consideration paid, grant to BIRCHVIEW BY THE SACO, INC., a Rhode Island corporation with a place of business in Middletown, Newport County, State of Rhode Island, with QUITLCLAIM COVENANTS, the interest in and to:

Two certain tracts or parcels of land, situate in the Town of Bartlett, County of Carroll and State of New Hampshire, more particularly bounded and described as follows:

TRACT #1:

Beginning at an iron pipe on the easterly edge of Spruce Drive, so-called, said point of beginning also being the most southerly corner of land of Richard Tilton, Lot #52, as recorded Carroll County Records, Book 487, Page 305; thence running South 16 degrees 45 minutes East, a distance of 65 feet to an iron pipe at the edge of Covered Bridge Lane, so-called; thence turning and running South 87 degrees 15 minutes West along said Covered Bridge Lane a distance of 43.7 feet to an iron pipe; thence turning and running North 20 degrees 45 minutes East a distance of 69.2 feet to the point of beginning.

Meaning and intending hereby to convey a triangular piece of land, being a portion of the premises conveyed this Grantor by Fiduciary Deed of the Estate of Claire Zumstein; recorded May 26, 1971, Carroll County Records, Book 485, Page 474, said triangular piece situated in Spruce Drive, as shown on plan entitled "Birchview, Bartlett, N.H., surveyed by Roger S. Burnell, Conway, N.H., revised to Nov. 9, 1971."

TRACT #II:

Beginning at an iron pipe on the northerly side of Covered Bridge Lane, said point of beginning also being the southwesterly corner of land of Grantor and the southeasterly corner of Tract #I herein conveyed; thence running along the northerly side of said Covered Bridge Lane North 76 degrees 45 minutes East a distance of 134.3 feet to an iron pipe; thence still running along the northerly side of said Covered Bridge Lane North 74 degrees 30 minutes East a distance of 35 feet to an iron pipe; thence still running along said Covered Bridge Lane North 65 degrees 30 minutes East a distance of 68 feet to an iron pipe set in a stone wall; thence turning and running in s southeasterly direction to the intersection of old Highway (Route 302) and said Covered Bridge Lane to a point; thence turning and running in a westerly direction along said Covered Bridge Lane to the intersection of said Spruce Drive; thence turning and running North 16 degrees 45 minutes West to the point of beginning.

ALSO conveyed is any present or future interest of water rights owned by either Theodore R. Wroblewski and E. Sharon Wroblewski located on the land of the Grantee.

And we, Theodore R. Wroblewski and E. Sharon Wroblewski, Grantors, release all rights of homestead and other interest therein.

WITNESS our hands and seal this 16 day of November , 1992.

WITNESS Edith M. Day Theodore R. Wroblewski

Dorcas H. Deans E. Sharon Wroblewski

STATE OF NEW HAMPSHIRE CARROLL, SS.

Personally appeared the above named Theodore R. Wroblewski and acknowledged the foregoing instrument to be his voluntary act and deed.

Nov. 4th, 1992 Before me, Cheryl A. Clemons Notary Public My Commission Expires August 22, 1995

STATE OF NEW HAMPSHIRE CARROLL, SS.

Personally appeared the above named E. Sharon Wroblewski and acknowledged the foregoing instrument to be her voluntary act and deed.

Nov 16, 1992 Before me, Dorcas H. Deans Notary Public

EXHIBIT D

RELEASE

Parties

In consideration of the settlement of litigation, the following parties hereby agree to mutually release one another as provided herein below: Birchview By The Saco, Inc. ("Birchview"), Theodore R. Wroblewski and E. Sharon Wroblewski (collectively referred to as the "Wroblewskis"). In the case of the individual releasing or being released from liability, the release includes his heirs, agents, executors, and administrator. In the case of the corporation or

business entity releasing or being released from liability, the release includes its directors, officers, partners, employees, agents, successors, and assigns.

Release Covers:

This release covers all claims, known or unknown, that Birchview and the Wroblewskis have, could have, against one another, which in any way relate to Birchview supplying water to the Bernerhof Inn, including but not limited to, the obligation to pay for water supplied to the Bernerhof Inn and the transactions between Birchview and Hermann Pfeuti, the predecessor in interest to the Wroblewskis, as stated in a deed dated September 6, 1974. Without limiting the generality of the foregoing, this release covers all claims or counterclaims raised or which could have been raised in the following actions: *Theodore R. Wroblewski and E. Sharon Wroblewski v. Birchview By The Saco, Inc.*, New Hampshire Superior Court for the County of Carroll, Docket No. 91-E-053 and

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Theodore R. Wroblewski and E. Sharon Wroblewski v. Birchview by the Saco, Inc., New Hampshire Public Utilities Commission, Docket No. DC 91-127.

Birchview By the Saco, Inc., Theodore R. Wroblewski and E. Sharon Wroblewski agree to execute either party's docket markings in order to terminate the above noted proceedings.

Representations and Warranties of Releasing Party:

The party signing below represents and warrants that he or she signed this release freely and had the advice of counsel and that no promises were made to obtain this release, except for the promises referred to above.

BIRCHVIEW BY THE SACO, INC

Dated: Oct. 25, 1992 By: Carlton Bacon

President

Priscilla A. McCarthy Witness

Dated: 11/4/92 By: Theodore R. Wroblewski

Edith M. Day Witness

Dated: 11/16/92 By: E. Sharon Wroblewski

Dorcas H. Deans Witness

EXHIBIT E

The State of New Hampshire

SUPERIOR COURT

CARROLL, SS. OCTOBER TERM, 19 Theodore R. Wroblewski and E. Sharon v. Birchview by the Saco, Inc. Wroblewski

No. 91-E-053

STIPULATION FOR DOCKET MARKING

It is hereby stipulated and agreed

That the above-entitled action may be marked:

Neither party. No costs. No further action for the same cause.

Dated November 16, 1992

By: DORCAS H. DEANS, Attorney

By: PAUL SAVAGE, Attorney

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NH.PUC*03/29/93*[75038]*78 NH PUC 194*EnergyNorth Natural Gas, Inc.

[Go to End of 75038]

Re EnergyNorth Natural Gas, Inc.

DR 93-039

Order No. 20,800

78 NH PUC 194

New Hampshire Public Utilities Commission

March 29, 1993

Cost of Gas Adjustment; Report and Order Approving the Summer 1993 Filing.

Appearances: McLane, Graf, Raulerson, and Middleton by Jacqueline Lake Killgore, Esquire, on behalf of EnergyNorth Natural Gas, Inc.; and Amy L. Ignatius, Esquire, on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On March 1, 1993, EnergyNorth Natural Gas, Inc. (ENGI or the Company), a public utility engaged in the business of supplying natural gas in the State of New Hampshire, filed with the Public Utilities Commission (Commission) 12th revised page 1, superseding 11th revised page 1, Tariff, N.H.P.U.C No. 1 Gas, accompanied by the pre-filed direct testimony and supporting attachments of Carolyn J. Huber and Christopher P. Fleming. Said tariff provided for a 1993 Summer Cost of Gas Adjustment (CGA) credit, effective April 1, 1993, of (\$0.0193) per therm, exclusive of the New Hampshire State Franchise Tax. This represents a decrease of \$0.0376 per therm over the 1992 Summer period per therm debit of \$0.0183.

On March 15, 1993, ENGI filed the supplemental direct testimony of Christopher P. Fleming, which focused on the important topic of

"capacity release." On March 17, 1993, the pre-filed direct joint testimony of Staff members Kenneth E. Yasuda, Sr. and Robert F. Egan was filed with the Commission; their testimony gave Staff's general position on the Company filing as well as addressing certain specific issues.

II. POSITIONS OF ENGI AND STAFF

A. ENGI

Pre-filed direct testimony was submitted by Carolyn J. Huber, Manager of Regulatory Affairs and Budgets, and Christopher P. Fleming, Vice President of Gas Supply and Corporate Development. Ms. Huber's testimony detailed the proposed cost of gas adjustment calculations, addressing in particular the causes of the large Summer CGA credit: the lower base unit cost of gas and the inclusion of four months of demand charges into the longer seven month summer period, both changes stemming from the new rate design of DR 90-183. Ms. Huber also provided the rationale for why both the summer and winter take-or-pay costs, previously disallowed by the Commission but subsequently reversed by the New Hampshire Supreme Court, should be collected in this summer's CGA. Ms. Huber also indicated the magnitude of the impact of Tennessee Gas Pipeline's (TGP's) "Cosmic Settlement" on last summer's cost of gas, which resulted in an over collection of \$366,324 for that period.

Underlying both the direct and supplemental direct testimony of Mr. Fleming is his fundamental assumption that the mandated restructuring of the TGP system by FERC Order 636 will not occur until November 1, 1993, i.e., will not affect the 1993 Summer CGA period. This assumption explains the presence of TGP's "bundled" CD-6 rated gas in ENGI's natural gas supply portfolio. Mr. Fleming also stated in his direct testimony that summer natural gas volumes would be primarily supplied through Aquila, Boundary Gas, Iroquois, Natural Gas Clearing House, Western Gas Marketing, and third party contracts. Mr. Fleming further testified that the third party gas originates in Canada and the Gulf of Mexico, and that the former is less costly than the latter. Minimal volumes of Propane and LNG will complete the natural gas supply portfolio.

Mr. Fleming also indicated in his direct testimony that ENGI plans to continue use of the Firm Capacity Entitlement (FCE) option with TGP this summer; he estimated that this option will allow the Company to replace fifty percent of its TGP gas volumes with cheaper third party gas supplies. Mr. Fleming also estimated that ENGI has saved firm ratepayers approximately \$60,000 from the inception of the "Cosmic Settlement" by utilizing the FCE option.

In his supplemental direct testimony, Mr. Fleming sketched in very broad strokes certain issues from the topic of "capacity release." Capacity release on interstate pipelines is the result of the restructuring of interstate pipelines, i.e., the "unbundling" of interstate transportation service from the gas commodity sales service, as directed by FERC Order 636. Capacity release becomes available on an interstate pipeline when holders of firm interstate pipeline contracts allow others to use whatever portion of the firm interstate pipeline capacity that is not needed to serve firm customers.

Mr. Fleming noted that for LDCs in the Northeast, and in particular, for ENGI, capacity

release will be available only during the nonheating season. Because of this, it is his opinion that there will be a summer time capacity "glut" in the Northeast market, which will drive down the value of this excess capacity; therefore, following his reasoning, the revenues to be accrued from the sale of this capacity will be nominal, at best.

Mr. Fleming also pointed out that ENGI, in very general terms, does have a policy regarding capacity release: "[I]t is the same policy that drives all gas supply decisions: ENGI will participate in capacity release — and whatever other opportunities are available — to reduce costs to core customers when it is operationally and/or economically feasible. This policy will be applied to whatever procedural constraints FERC establishes for capacity release." (Supplemental Direct Testimony of Christopher P. Fleming, DR 93-039, pages 3 and 4 of 4, lines 21 and 1 through 4.)

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B. Staff

Pre-filed direct joint testimony was submitted by Kenneth E. Yasuda, Sr. and Robert F. Egan, Utility Analysts in the Economics and Engineering Departments, respectively, of the Commission. Upon their review of the Company filing, the general conclusions reached were that (i) ENGI's gas purchasing policies are sound and reasonable, (ii) the Company is utilizing its available resources in a manner which minimizes gas costs, and (iii) ENGI's proposed 1993 Summer CGA of (\$.0193) per therm is just and reasonable and is in the public interest.

In both their written and oral testimony, Messrs. Yasuda and Egan addressed three areas of concern with the Company filing. The first involves the assignment of the total take-or-pay expenses to the Summer CGA period rather than the allocation of the winter portion of these costs to the Winter CGA period. While the take-or-pay adjustment proposed by ENGI violates the principle of cost-causation, strictly interpreted, Messrs. Yasuda and Egan concluded that there were ample reasons to warrant a one time departure from this accounting principle; moreover, given the relative stability of the customer mix between the summer and winter periods, the equity issue did not become a factor. For these reasons, Messrs. Yasuda and Egan recommended that the Company take-or-pay adjustment be accepted and approved.

The second area of concern centers on Mr. Fleming's assumption of a November 1, 1993 implementation date for the TGP 636 restructuring. In the event of an earlier implementation date, it is imperative that ENGI be in a position to replace its present "bundled" gas supplies with alternative "unbundled" supplies. It appears that the Company is aggressively taking steps in this direction. Messrs. Yasuda and Egan also recommended that should an earlier TGP 636 implementation date be realized, the Company make a supplemental CGA filing with the Commission which reflects all Order 636 induced changes.

The last area of concern centers on capacity release, specifically, and the ramifications from Order 636, more generally. Messrs. Yasuda and Egan believe there are a number of policy issues regarding capacity release that need to be thoroughly explored and resolved before gas flows on the TGP under Order 636; at a minimum, these issues include:

- 1) The criteria used to determine the actual amount of excess capacity available to be released;

- 2) The accounting treatment of any revenues generated from the released capacity;
- 3) The beneficiaries of the capacity release revenues; and
- 4) The creation of a "reporting mechanism" to monitor the capacity release program.

Because Staff and the Company did not have the opportunity to fully discuss many of the important but complex issues which will arise out of the TGP's 636 restructuring filing with the FERC, Messrs. Yasuda and Egan recommended that the Commission establish a working group consisting of representatives from the Staff, ENGI, and the Office of the Consumer Advocate. Given the importance of specific guidelines being in place before the TGP's implementation of Order 636, Messrs. Yasuda and Egan also recommended that the working group report back to the Commission before the end of June 1993.

III. COMMISSION ANALYSIS

The Commission finds that the Company has utilized its available resources in a manner which minimizes natural gas costs. We also find the proposed CGA rate of (\$0.0193) per therm, before the adjustment for the franchise tax, just and reasonable and in the public interest. We will expect the Company to make a mid-course correction should changes in spot market gas prices result in gas costs markedly different from those projected.

With respect to the proposed take-or-pay cost adjustment proposed by the Company, the Commission finds the arguments advanced by both the Company and Staff compelling

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and accepts this one time departure from the principle of cost-causation. We are also cognizant of the uncertainty surrounding the implementation date of the TGP 636 restructuring filing at the FERC. Should implementation occur before the Company's assumed November 1, 1993 date, we would certainly expect ENGI to make a supplemental CGA filing which reflects all Order 636 induced changes.

The Commission concurs with Staff concerning the need for a comprehensive Commission policy to address certain complex issues stemming from the TGP Order 636 restructuring; the issue of "capacity release" is just one topic which needs further examination. We therefore accept and adopt Staff's recommendation regarding the formation of a working group, to consist of representatives from the Staff, ENGI, and the Office of the Consumer Advocate, the purpose of which is to identify and address issues arising from the TGP 636 restructuring. We will expect this working group to report back to us in a timely fashion, i.e., before the end of June 1993, in order that specific guidelines can be put into place before the actual implementation of Order 636 by TGP.

Our order will be issued accordingly.

Concurring: March 29, 1993

ORDER

Upon consideration of the foregoing report, which is made a part hereof; it is hereby

ORDERED, that the 12th revised page 1, superseding 11th revised page 1, Tariff, N.H.P.U.C

No. 1 Gas filed by EnergyNorth Natural Gas, Inc. (ENGI), providing for a Cost of Gas Adjustment of (\$0.0193) per therm for the period April 1, 1993 through October 31, 1993 be, and hereby is, approved; and it is

FURTHER ORDERED, that should the monthly reconciliation of known and projected gas costs deviate from the 10% trigger mechanism, ENGI shall file a revised Cost of Gas Adjustment; and it is

FURTHER ORDERED, that the above rate is to be adjusted by a factor of approximately 1% according to the utilities classification in the Franchise Tax Docket DR 83-205, Order No. 16,524; and it is

FURTHER ORDERED, that should the implementation of the TGP 636 restructuring occur before November 1, 1993, ENGI shall file a revised Cost of Gas Adjustment to reflect all Order 636 induced changes; and it is

FURTHER ORDERED, that a working group be formed, to consist of representatives from the Staff, ENGI, and the Office of the Consumer Advocate, the purpose of which is to identify and address issues arising from the Tennessee Gas Pipeline (TGP) 636 restructuring, the topic of "capacity release" being one such issue; and it is

FURTHER ORDERED, that said working group report back to the Commission no later than June 30, 1993, so that specific guidelines can be put into place before the actual implementation of Order 636 by TGP.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of March 1993.

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NH.PUC*03/29/93*[75039]*78 NH PUC 197*Pennichuck Water Works, Inc.

[Go to End of 75039]

Re Pennichuck Water Works, Inc.

DR 92-220
Order No. 20,801
78 NH PUC 197

New Hampshire Public Utilities Commission

March 29, 1993

Order Granting Petition for Temporary Rates.

Appearances: Gallagher, Callahan & Gartrell by John B. Pendleton, Esq. for Pennichuck Water Works, Inc.; E. Barclay Jackson, Esq. and Eugene F. Sullivan, III, Esq. for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On January 15, 1993, Pennichuck Water Works, Inc. ("Pennichuck" or "Company") petitioned the New Hampshire Public Utilities Commission ("Commission" or "NHPUC") for a proposed increase in permanent rates of \$1,960,535 to become effective on February 15, 1993. Concurrently, Pennichuck requested

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by petition a temporary rate increase in the amount of \$717,804 (representing an increase of 9.07%) over its current authorized level of rates. The increase in temporary rates was revised to \$726,927 when a further filing of testimony by Company witnesses was made on February 26, 1993.

On February 8, 1993, the Commission issued Order No. 20,753 suspending the permanent rate filing tariffs and establishing a prehearing conference on February 26, 1993 to address procedural matters governing the pendency of the permanent rate case. In accordance with the procedural schedule a prehearing conference was held on February 26, 1993.

At the prehearing conference appearances were made by Dom S. D'Ambruoso, Esq. of Ransmeier & Spellman for Anheuser-Busch, Larry S. Eckhaus, Esq. for Southern New Hampshire Water Company, Inc., John B. Pendleton, Esq. for Pennichuck Water Works, Inc. and E. Barclay Jackson, Esq. for the Commission Staff. Anheuser-Busch and Southern New Hampshire Water Company, Inc. were seeking intervention. On March 8, 1993, the Commission issued Order no. 20,777 adopting a procedural schedule and addressing the issue of intervention. The Commission granted full intervention to Anheuser- Busch as requested and limited intervention to Southern New Hampshire Water Company, Inc. as requested.

On March 17, 1993 Southern New Hampshire Water Company, Inc. (SNHW or Southern) by letter dated March 16, 1993, requested clarification of Report and Order No. 20,777 issued March 8, 1993, granting SNHW limited intervenor status under Puc 203.03. Southern had requested intervention but limited to issues concerning its Special Water supply Contract with Pennichuck and such other issues that may arise during the proceeding that may have an effect on Southern's utility operations. In a March 16, 1993, request for clarification, Southern indicated it desired full intervenor status. At its public meeting, March 23, 1993, the Commission authorized full intervention to Southern New Hampshire Water Company, Inc.

On March 9, 1993, the Commission held the temporary rate hearing. The arguments and Commission rulings are set forth below. II. POSITION OF THE PARTIES AND STAFF

A. *The Company*

Pennichuck seeks approval from the Commission to implement temporary rates based on evidence that it is earning substantially below its authorized overall rate of return, its authorized return on common equity (10.71%), and that its interest coverage ratio is at the minimum level required by the Company's long-term note agreements. The Company requested a temporary

9.07% increase over its existing rates. The Company's currently allowed rate of return is 9.23%, determined by the Commission in Pennichuck's last rate proceeding, *Re Pennichuck Water Works, Inc.*, DR 91-055, Order no. 20,553 issued July 31, 1992. The Company claimed in testimony its overall rate of return was 8.2%.

Rates of Return

The Company states that the main factor which caused the Company to fall short of its allowed rate of return is a significant decrease in pumpage and consumption by the Company's customers as a result of the poor economic climate.

The Company has not achieved its allowed return on equity of 10.71% since its current rates became effective. Pennichuck states that its return on equity since that time has dropped to a low of 5.5%. The Company asserts that its ratio of pretax earnings to interest expense will adversely affect its ability to secure future financing.

The Company used its last found overall rate of return of 9.23% in calculating the revenue increase it requested for temporary rates.

Rate Base Adjustments

Pennichuck included in its additional plant completed after the test year (up until February 28, 1993) stating that these items are used and useful and are known and measurable and should be included as part of the measure regarding temporary rates. Pennichuck argues that RSA 378:27 requires "temporary rates shall

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be sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service less accrued depreciation as shown by the reports of the utility filed with the Commission". Stating that RSA 378:27 does not define what constitutes a "report of the utility," that none of the cases interpreting RSA 378:27 define the phrase, and that NHPUC Rule Puc 101 does not define the term "report", the Company then supplies its own definition to include all reports it has filed with this Commission, including Form E-22 which is the "Report of Proposed Expenditures in Fixed Capital." Having filed all reports as required by the Commission, the Company avers that all reports it has filed must be used in determining what is "used and useful."

The Company requests that an increase of 9.19%, or \$726,927, be allowed as the temporary rate level and provides the calculation to justify this amount through exhibits attached to its filed testimony. The calculation includes pro forma adjustments to rate base to include plant "used and useful" after the end of the test year and the tax benefit from interest expense relating to the Amherst acquisition.

B. Commission Staff

In its testimony Staff recommended that the Commission set the level of \$454,868 for the temporary increase in rates. Staff calculated the Company's rate of return using a thirteen-point average for the twelve months ending September 31, 1992, the test year. Staff used the last found return on equity of 10.71% in the Company's capital structure in determining the overall rate of

return to be used for setting temporary rates.

Adjustments to Rates of Return and Rate Base

Staff calculations showed that the Company is failing to earn its previously allowed overall rate of return of 9.23% and that its earnings are continuing to drop over time. To stem the effects of a continued drop in earnings, Staff recommended temporary rates be set at an increased level. Staff testified that it was proper to use the last found return on equity and update the cost of debt in the capital structure for known changes since the last rate case. Staff's calculations adjusted two of the Company's attributions. One was an adjustment moving \$1,350,806 of common equity to debt and one was an adjustment to include a \$1,330,000 note relating to the Amherst acquisition.

The \$1,330,000 note is a known and measurable item as it was taken directly from the Stipulated Agreement which was part of DR 91-107. The final order approving the Stipulated Agreement issued on November 16, 1992, Order No. 20,688.

Staff prepared schedules based on a thirteen-point average using Company financial reports filed monthly with this Commission. Staff pro formed to include the Amherst acquisition and the known and measurable increase in revenues which were due to a rate increase approved by the Commission in DR 91-055. This increase, Order no. 20,319 (December 3, 1991) affected revenues subsequent to November 26, 1991. Therefore, it had not been included in the Company monthly financial reports because of the timing of issuance of Order no. 20,319. The Company accurately pro formed its figures in its petition for permanent rates.

Staff did not make adjustments based upon the Cost of Service Study submitted the Cost of Service Study as there was no time for discovery and the study is an issue to be addressed in the full rate case.

III. COMMISSION ANALYSIS

The Commission's authority to set temporary rates is explicitly authorized by statute, RSA 328:27. The Commission's authority to set such rates is discretionary and is to be exercised only when such rates are in the public interest. Temporary rates are established without such investigation as is required for the determination of permanent rates. *Re New England Telephone & Telegraph Co. v. State*, 95 N.H. 515 (1949); *Re Southern New Hampshire Water Company, Inc.*, 75 NH PUC 549 (1990), *aff'd. sub nom.*, *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 597 A.2d

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528 (1991). However, at a minimum, the Commission must have evidence that temporary rates are needed to ensure a properly operating and financially sound utility. *Re Hampton Water Works*, Order No. 20,262 (October 4, 1991). The Commission determines temporary and permanent rates based on the standard that rates must be sufficient to yield not less than a reasonable return on the cost of utility property that is used and useful in the public service less accrued depreciation. RSA 378:28; *Re Southern New Hampshire Water Co., Inc.*, 73 NH PUC 352 (1988).

For the test year ended September 31, 1992, the Company's cost of capital was 9.16%, which

is 7 basis points less than its last found cost of capital using the Commission finding on cost of equity. Measuring the current cost of capital for the Company using the last found cost of equity with current costs of other debt provides the Commission with a truer measure of the current overall Cost of Capital. While earnings below authorized rates is one factor to consider in determining whether temporary rates are appropriate, it is not the only factor. The Company's ability to provide service and attract financing has significant weight in the decision-making process. The Company testified that an authorization for temporary rates at an increased level would send a signal to the financial community that the Company will be better able to meet its debt obligations. The Company testified that it will be financing in June 1993 to meet its obligations. A substantial increase in the cost of financing projects that are approved as prudent by the Commission will ultimately be borne by the ratepayers. The establishment of temporary rates will send appropriate signals to potential long-term lenders in evaluating the Company's potential debt issue. The Company also needs access to financial markets to have adequate capital available to provide plant additions.

Rate Base Additions

The Commission does not agree with the Company regarding the inclusion in rate base of the plant additions completed after the test year for the temporary rate request. Staff made a pro forma addition for the Amherst acquisition to plant. This addition is known and measurable due to discovery in DR 91-107. We will accept this addition.

Pennichuck stated that as it has filed all reports required by the Commission for the purpose of reporting any additional plant in service, these reports should all be considered in this rate case. Staff did not dispute that the company has filed all reports required but did dispute that reports filed after the test year can be considered for the temporary rate case. Staff computed its schedules using the Company monthly financial reports as filed for the test year. We find this appropriate. The final Order in docket DR 91-107 (Order no. 20,688, November 16, 1992) provided the amount of the plant addition for the Amherst acquisition. Staff also added the related estimated revenues and expenses. The adjustments were made according to the matching principle. The Amherst acquisition was included in the Company list of additional plant.

The plant additions which were put in service after the end of the test year will not be used in the calculations but may be considered in the permanent rate proceeding. Information provided on Forms E-22 gives the Commission information on *proposed* expenditures in fixed capital, i.e. construction projects. Construction dates are estimates, as are the costs. The Commission will not include data from Form E-22 when considering this requested temporary increase.

The temporary rates authorized in this report and order will be effective the date of this order for all service rendered on or after April 1, 1993.

The Company has included various plant additions in the permanent rate filing that may not be added to plant in service until June or July 1993. The Commission could be placed in a position of having to consider when plant was placed in service versus the effective date of temporary rates when dealing with permanent rate recoupment. Since permanent rates traditionally provide for recoupment or refund back to the date of temporary rates, that procedure could result in a violation of RSA 378:30-a.

Therefore, we will not consider plant additions at this time. The permanent rate case will address that issue.

The Commission practice is to use an historic average test year in the rate making process with rate base items booked at original cost. The Commission practice is to pro form revenues and expenses for known and measurable changes. The Commission will continue these practices.

Rates of Return

The rate of return being earned, 9.16%, does not in itself show that the Company needs temporary rates at an increased level. Pennichuck's debt ratio in its capital structure is 65.97% based on the Schedule 2A which is part of Exhibit 6A in this docket. The Company's interest coverage is 1.75 (demonstrated by Exhibit 5B) which is the absolute minimum requirement for the Company to be able to issue new bonds. Pennichuck claims its return on common equity has been steadily dropping from 8.5% to 5.5% as of September 30, 1992 and further to 4.7% as of December 31, 1992. These factors provide indication that Pennichuck needs temporary rates at a higher level than the current rates.

Level of Temporary Rates

The remaining issue to be decided is the level of temporary rates which should be established. The Staff's proposal to grant temporary rates at an increase of \$454,868, or 5.65% is supported by the record. Inclusion of a reasonable part of the projected permanent rate increase in temporary rates will protect the customer from a large surcharge when permanent rates are approved, while still allowing for a reimbursement should the thorough investigation necessary for permanent rate determination result in the establishment of permanent rates at a level lower than temporary rates.

Businesses, regulated and unregulated alike, are scrutinizing their expenditures in recognition of the present economic climate. Although the Commission does not accept that temporary rates should be instituted based on loss of pumpage (sales), the Commission does accept, as stated above, that the Company will suffer financial harm if it does not receive some temporary rate relief.

The Commission will grant temporary rates at a 5.65% level (or \$454,868), as proposed by Staff, on the basis of its review of the evidence in this portion of the proceeding. This decision is consistent with the basic principles of ratemaking established by the Commission. The temporary rate increase authorized will be applied to all of Pennichuck's customers including municipal and private fire protection.

The Commission finds that the temporary rate is consistent with the public interest and sufficient to yield a reasonable return on the cost of Pennichuck property used and useful in the public service less accrued depreciation. The only plant addition beyond the test year we will recognize for temporary rates is the Amherst acquisition as this is known and measurable. Staff will be conducting an audit of the Company. The audit will provide the discovery needed as it relates to all other plant additions during and after the test year.

Our order will issue accordingly.

Concurring: March 29, 1993

ORDER

Upon consideration of the foregoing report, which is made a part hereof; it is hereby ORDERED, that temporary rates are approved at a level of 5.65% (\$454,868) and shall be effective for service rendered on or after April 1, 1993.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of March, 1993.

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NH.PUC*03/30/93*[75040]*78 NH PUC 202*New England Telephone and Telegraph Company

[Go to End of 75040]

Re New England Telephone and Telegraph Company

DR 93-054
Order No. 20,802
78 NH PUC 202

New Hampshire Public Utilities Commission

March 30, 1993

Order Granting Protective Treatment.

BY THE COMMISSION:

ORDER

On March 16, 1993, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission) a request for approval of a special contract for a Digital Centrex System service between NET and the State of New Hampshire (Special Contract). Included in the filing were supporting materials to explain the purpose of the contract, its cost support and billing service details (Supporting Materials); and

WHEREAS, NET filed a Motion for Protective Order on the Special Contract and for interim proprietary treatment of the Special Contract and Supporting Materials; and

WHEREAS, in its motion NET states that the Special Contract and Supporting Materials contain customer-specific and competitively sensitive data including "cost analyses, network size, routing and configuration data; information regarding specific service features; and other contract terms such as term, special rates and billing information;" and

WHEREAS, the information identified above is a necessary part of the filing, and important for Commission Staff (Staff) to review in evaluating the proposed contract; and

WHEREAS, the Commission recognizes the importance of Staff having the opportunity to review fully the materials which support the Proposed Special Contract, in order to responsibly carry out its duties; it is hereby

ORDERED, that the Motion for Protective Order be, and hereby is, granted to allow Staff review of the Special Contract and Supporting Material; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Commission Staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this thirtieth day of March, 1993.

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NH.PUC*03/30/93*[75041]*78 NH PUC 202*Ecklund v. New England Telephone Company

[Go to End of 75041]

Ecklund v. New England Telephone Company

DC 92-016

Order No. 20,803

78 NH PUC 202

New Hampshire Public Utilities Commission

March 30, 1993

Consumer Complaint; Report Finding for Respondent, New England Telephone Company.

Appearances: Victor Del Vecchio, Esq. and Beth Osler on behalf of New England Telephone Company; Louise F. Ecklund, pro se; Amy Ignatius, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY AND POSITIONS OF THE PARTIES AND STAFF

This docket was opened on the filing of a consumer complaint pursuant to RSA 365:1, et. seq., by Louise F. Ecklund on October 8, 1991 with the New Hampshire Public Utilities Commission (Commission). Ms. Ecklund (complainant) alleges that New England Telephone Company (NET) did not take appropriate action to prevent radio interference with her business telephone and answering machine. She alleges that the radio signal from WHEB in Portsmouth interfered with her use of her business phone and answering machine at her business address of 127B Middle Road, Portsmouth, New Hampshire. She was, prior to some modifications made by NET, unable to understand some telephone conversations or messages left on her answering

machine because voice and music broadcastS over WHEB were being picked up on her equipment.

In February, 1991, WHEB attempted to reduce such interference for the neighbors by

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installing a new type of transmitter which directs radio waves higher, over a longer distance. However, WHEB's 50,000 watt transmitter, being in close proximity to Ms. Ecklund's business, subjects her to "brute force interference" despite the mitigating technology. It is her contention that NET should make whatever modifications to her equipment may be necessary to eliminate the radio interference. She also contends that she should not be obligated to pay her telephone bill, currently owing and withheld by her in protest, in the amount of \$1,643.31 for services rendered by NET between September and December, 1991. She further requests that NET be ordered to refund to her, with interest, \$813.12 she paid to NET for services rendered between April 8 and August, 1991. Any amounts in addition to these which previously accrued at a prior address are not at issue here and, if not already accomplished, should be paid in full subject to termination of service.

NET contends that it has done substantially more than is required under the laws and regulations administered by the Commission to address Ms. Ecklund's concerns.

Ms. Ecklund first complained to NET of radio interference soon after her telephone was installed at her current business address on April 8, 1991. From the inception, NET informed her that the cause of the problem lies with her equipment and not with NET's lines or facilities. NET performed extensive work on Ms. Ecklund's premises in attempts to lessen the interference. Ms. Ecklund's telephones and answering machine were found to be acting as receivers for the WHEB radio signal and her inside wiring was acting as an antenna exacerbating the interference. NET technicians provided, installed and checked various suppressors to minimize the ability of the telephone wiring in Ms. Ecklund's office to act as an antenna on the radio signal. NET also rewired Ms. Ecklund's office using twisted-pair wire, which is less susceptible to interference. These suppressor lessened, but did not eliminate, the interference. NET advised her that she should contact the manufacturers of her equipment for modifications to the telephone and answering machine that would eliminate the interference by choking off the signal closer to that part of the equipment which acts as a receiver for the radio signals. The company facilitated this process for Ms. Ecklund by preaddressing packages in which she could mail the equipment.

Ms. Ecklund did not accept NET's offer to return her equipment to the manufacturer for modifications. She acknowledged that the work that NET had done on her premises substantially lessened the interference but she asserts that NET should also make modifications to her equipment, free of charge.

Ms. Ecklund, by letter to NET Vice President for New Hampshire, Patrick Duffy, dated June 17, 1991 (Exhibit NET-1) indicated her disagreement that the problem lies with her equipment but with NET's lines. Mr. Duffy's response (Exhibit NET-3), dated July 9, 1991, confirmed that tests demonstrated the problem was with her equipment and that said equipment can be modified only by the equipment's manufacturer. Ms. Ecklund acknowledged to NET (Exhibit NET-2) that NET could do nothing further but feels that NET should use its power as a large company to

force the Federal Communications Commission (FCC) and the radio station to stop interfering with her line (Exhibit NET-2).

Staff Witness, Telephone Engineer Kathryn Bailey, corroborated NET's assertions relating to the cause of the interference and to the adequacy of NET's remedial actions.

II. COMMISSION ANALYSIS

NET ordinarily has no obligation to service inside wire or customer premises equipment (CPE). The FCC preempted state jurisdiction over CPE and inside wire.¹⁽²¹⁾ The Commission implemented these directives in dockets DE 82-335 and DE 86-154, Reports and Order Nos. 16,008 and 18,514, dated November 19, 1982 and December 19, 1986.²⁽²²⁾ In Docket DE 86-154 the Commission, pursuant to a federal mandate, directed that telephone companies retain ownership of telephone plant and facilities, including wiring, up to the "Network Interface Device" or "NID", the point at which the telephone wires

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are connected to the customer premises. Ownership, and thus responsibility for maintenance, of all wiring and telephone equipment on the customer premises side of the NID, rests with the customer. Thus, in ordinary circumstances, problems with inside wiring and CPE is the responsibility of the customer and not of the telephone company.

In Ms. Ecklund's case, however, NET contracted with her, via its Telesure Plus Program, to maintain and repair her inside wire if necessary.³⁽²³⁾ The Telesure Plus Program does not fall within the jurisdiction of the Commission and is a competitive service, the equivalent of which is offered by a number of unregulated vendors. Thus, under the Telesure Plus Program, NET performed various services for Ms. Ecklund to alleviate the interference with her telephone line well beyond what it was required to do as a regulated utility. The record appears to indicate that NET also fully performed its obligations under the Telesure Plus Program but, had they not, the Commission would have no authority to address that issue since it is not a regulated activity. Because we find no instance in which NET failed to adequately serve Ms. Ecklund, we reject her demand for relief.

Subsequent to the hearing on this matter, the Commission was informally advised that Ms. Ecklund had declared bankruptcy on behalf of her business. Since we have received no formal notification of this, we will find against the complainant and authorize NET to collect any amounts owed by Ms. Ecklund for telephone service rendered during the period in question.

Our order will issue accordingly.

Concurring: March 30, 1993

ORDER

Based on the foregoing report, which is hereby incorporated by reference; it is hereby

ORDERED, that the relief requested by the complainant, Louise Ecklund, is hereby denied; and it is

FURTHER ORDERED, to the extent authorized under the bankruptcy laws of the United States, NET may take whatever actions are appropriate under applicable laws and regulations to

collect amounts due and owing from Ms. Ecklund for tariffed telephone service rendered during the period in question.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of March, 1993.

FOOTNOTES

¹Computer inquiry II, final decision, 77 FCC 2d 384, *modified on reconsideration*, 84 FCC 2d 50 (1980), *further modified on reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom. Computer Communications Industry Ass'n v. FCC*, 693 F 2d 198 (DC Cir. 1982) *cert. denied sub nom. Louisiana Public Service Commission v. United States*, 461 U.S. 938 (1983), *aff'd on second further reconsideration*, FCC 84-190 (released May 4, 1984). *See* Re De-tariffing the installation and maintenance of inside wiring, (Second Report and Order) *See* Docket No. 79-105, FCC 86-63, 51 FR 8498 (February 24, 1986).

²Re De-tariffing Telephone Utilities Inside Wiring, and other maintenance services, docket DE 86-154, 71 NH PUC 801 (December 19, 1986)(Revised December 30, 1986).

³NET's Telesure Plus Program provides for the maintenance and repair of inside wiring and a loaner telephone if a customer has to send phone in for repair. NET does not maintain or repair phones (CPE).

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NH.PUC*03/31/93*[75042]*78 NH PUC 204*EnergyNorth Natural Gas, Inc.

[Go to End of 75042]

Re EnergyNorth Natural Gas, Inc.

Additional respondents: Northern Utilities, Inc. and Public Service Company of New Hampshire

DRM 92-085

DRM 92-194

Order No. 20,804

78 NH PUC 204

New Hampshire Public Utilities Commission

March 31, 1993

Report and Order Addressing Amendments to N.H. Admin. R., Puc Section 311 and 510.

Appearances: McLane, Graf, Raulerson and Middleton by Mark C. Rouvalis, Esq. on behalf of EnergyNorth Natural Gas, Inc.; LeBeouf, Lamb, Leiby and MacRae by Meabh Purcell, Esq. on behalf of Northern Utilities, Inc.; Gerald M. Eaton, Esq. on behalf of Public

Service Company of New Hampshire; Office of the Consumer Advocate by Michael W. Holmes, Esq. on behalf of residential ratepayers; Representative Beverly T. Rodeschin; Representative Stanley W. Peters; Eugene F. Sullivan, III, Esq. on behalf of the New Hampshire Public Utilities Commission; Tom Bonnar on behalf of WMUR-TV; B. J. Eckhardt on behalf of *Business New Hampshire Magazine*; Jim Marshall on behalf of the *Concord Monitor*; August G. Fromuth on behalf of AGF Direct Gas Sales; Kenneth A. Colburn on behalf of the New Hampshire Business and Industry Association; Roger Graves on behalf of the New Hampshire Licensed Plumbers; Bernard Smith on behalf of the New England Fuel Institute and the Better Home Heating Council of New Hampshire; and Donald A. Girard.

Written Comments Only: Senator Eleanor P. Podles; Lawrence W. Yearke; Mr. and Mrs. Monte Cracier; and LeBeouf, Lamb, Leiby and MacRae by Scott J. Mueller, Esq. on behalf of Concord Electric Company and Exeter and Hampton Electric Company.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On April 27, 1992, and April 28, 1992, EnergyNorth Natural Gas, Inc. (ENGI) and Northern Utilities, Inc. (Northern) respectively filed petitions with the New Hampshire Public Utilities Commission (Commission) pursuant to RSA 541-A:6 to "repeal or, alternatively, amend..." N.H. Admin. R., Puc section 510 which prohibits the recovery from ratepayers of any gas utilities' expenditures for promotional, political or institutional advertising or activities. On June 2, 1992 the Commission orally granted the gas utilities' petition to initiate a rulemaking, and on August 6, 1992, formally issued an Order Of Notice commencing an investigation into the continued efficacy of Puc section 510 as it relates to the issue of "promotional advertising and activities". The Order of Notice formally denied the gas utilities' request relative to those sections of Puc section 510 addressing "institutional and political advertising and activities". It then scheduled a prehearing conference to address what procedures should be followed in investigating the current efficacy of the prohibition on the pass-through to ratepayers of promotional expenses.

At the prehearing conference held on September 1, 1992, the Commission concluded, based on the comments of the Parties and Staff, that it would entertain all proposed amendments to Puc section 510 and conduct a hearing as part of the formal rulemaking process. See, RSA 541-A:3-c,I.

Subsequent to the prehearing conference, Public Service Company of New Hampshire (PSNH) filed a petition pursuant to RSA 541-A:6 requesting that the parallel provisions of N.H. Admin. R., Puc 311, prohibiting the recovery of promotional expenses from ratepayers, be amended to reflect any changes to Puc 510. At its open meeting of October 8, 1992, the Commission "granted" PSNH's petition, and provided for the same procedures set forth above to investigate Puc section 510 to investigate the continued efficacy of the prohibition on the recovery of promotional expenses from electric utility ratepayers contained in Puc 311.

The Commission received proposed rule changes relative to Puc 510 from the Office of the

Consumer Advocate (OCA), ENGI, Northern and PSNH. The Commission received proposed rule changes relative to Puc 311 from the OCA and PSNH. Publicly noticed hearings were held on January 7 and 8, 1993.

II. POSITIONS TAKEN

A. ENGI

ENGI, along with Northern, proposed to amend Puc section 510 to allow for the pass-through to ratepayers of all promotional expenditures that were determined to be "reasonable" by the Commission. ENGI did suggest that the Commission could "cap" any promotional expenditures at some percentage of annual expenditures.

ENGI presented testimony and exhibits establishing that its competitors in the

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heating market (primarily oil dealers and their professional associations) were targeting the natural gas industry with a campaign of negative advertisement in the print, radio and television media in New Hampshire that "misinformed" the public concerning the relative costs and benefits of oil heat versus gas heat.

ENGI further testified that it needed to advertise to retain its current customers and to add to its customer base. It argued that the addition of customers to its customer base would increase its "margins" thereby alleviating its need to seek rate relief. In management's estimation, ENGI should increase its current promotional expenditures (currently borne by stockholders) for promotional advertising by five-tenths of one percent (from 0.2% to 0.7%) to achieve its goals.

B. PSNH, Northern, the Business and Industry Association and the Commission Staff

PSNH submitted parallel provisions for the gas and electric industries that provided for the recovery from ratepayers of promotional expenditures that were consistent with the utility's approved Least Cost Integrated Resource Plan (LCIP) and its approved Conservation and Load Management Plan (C&LM).

The Commission Staff, the Business and Industry Association and Northern (which formally abandoned the proposal put forth by ENGI at the January 7, 1993, hearing) supported this proposal because it would allow for the recovery of promotional expenditures that were in the best interests of stockholders, ratepayers and the public at large.

C. OCA

The OCA proposed to amend Puc 510 and 311 to allow the pass-through to ratepayers of expenditures consistent with the utility's C&LM program. However, the OCA did indicate that it could support the proposal set forth by PSNH and supported by Northern and the Commission Staff.

D. WMUR-TV, Concord Monitor, Business New Hampshire Magazine, New Hampshire Licensed Plumbers, Donald A. Girard; AGF Direct Gas Sales

The above listed individuals and entities spoke generally in favor of amending the Commission's rules to allow utilities to recover promotional expenditures from ratepayers.¹⁽²⁴⁾

E. Representative Beverly T. Rodeschin and Representative Stanley W. Peters

Both Representative Rodeschin and Representative Peters spoke against any proposed amendments to the Commission's advertising rules. Both Representatives believed that a change in the rules to allow for cost recovery of promotional activities would only lead to higher rates to the utilities' customers, thus burdening New Hampshire citizens and businesses, which already pay some of the highest energy costs in the country, with even higher rates. Representative Rodeschin also stated that a similar legislative proposal in 1992 had been voted inexpedient to legislate by the New Hampshire House of Representatives.

F. New England Fuel Institute and the Better Home Heating Council of New Hampshire

Both organizations (which represent independent oil dealers) opposed the "subsidization" of the gas industries' attempt to expand its market share and, therefore, any amendment to the Commission's rules. Essentially, they testified that the equity holders of the gas industry should support their marketing efforts and bear the risk of its success or failure just as independent oil dealers bear such risks.

G. Senator Eleanor P. Podles

Senator Podles, in a letter to the Commission, supported ENGI's request to amend the Commission's rules, and thereby,

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change the prohibition on the recovery of promotional expenditures by gas utilities. Senator Podles' position was based on the fact that gas utilities are in competition with oil dealers and their collective associations, which pass the costs of their promotional advertising on to consumers in the cost of their product. In her opinion, allowing gas utilities to recover the expenses of promotional advertising would merely "level the playing field". She went on to state that appropriate advertising by gas utilities could potentially reduce the per unit cost of gas to ratepayers by increasing the utilities' customer base and maintaining the existing customer base.

H. Concord Electric Company and Exeter and Hampton Electric Company

Concord Electric and Exeter and Hampton Electric, in a joint written statement filed with the Commission, supported the position set forth by PSNH; that is, promotional expenditures that are consistent with the particular utilities' LCIP should be allowed.

I. Lawrence W. Yearke and Mr. and Mrs. Monte Cracier

Both Mr. Yearke and Mr. and Mrs. Cracier filed written comments opposed to allowing any gas utility to pass on to customers the cost of promotional expenses because of a concern that these expenses would merely increase their rates.

III. COMMISSION ANALYSIS

After thorough consideration of all of the comments put forth by all the participants to this proceeding, we believe that some modifications to Puc 510 and Puc 311 are necessary to serve the public good²⁽²⁵⁾. *See generally*, RSA Title XXXIV.

We will, therefore, submit rules which provide for a 50/50 sharing between ratepayers and

stockholders of all reasonable promotional expenditures by gas and electric utilities that are consistent with the utility's Least Cost Integrated Resource Plan. Further, the utility may recover all reasonable expenditures from ratepayers to promote "economic conservation" through its Conservation and Load Management Plan.

In regard to the first modification, we are sensitive to the concerns raised by certain participants to this proceeding that promotional expenditures would merely result in increased rates to consumers and, therefore, would not be in the public interest. However, there are circumstances in which increases in a company's demand are in the long term best interests of ratepayers. Whether a company's system is characterized by those circumstances will be revealed in its LCIP.

Our belief that activities consistent with, and an integral part of, a utility's LCIP will reduce rates to customers in the long run is in concert with the New Hampshire General Court and the United States Congress. See, *Re Public Service Company of New Hampshire, et al.*, 73 NH PUC 117 (1988).

In 1990, the New Hampshire General Court adopted and codified this belief when it declared that:

it shall be the energy policy of this state to meet the energy needs of the citizens and businesses of this state at the lowest reasonable cost....

RSA 378:37

Pursuant to that policy, the General Court required all electric utilities subject to this Commission's jurisdiction to file biennially a LCIP with this Commission for its evaluation to consider, *inter alia*, the least cost alternatives for providing the State with a reliable source of energy. RSA 378:38 and 39.

In 1992, the United States Congress codified this same belief with the passage of the National Energy Policy Act of 1992 (NEPA) requiring all state regulatory agencies (including this Commission) to implement LCIP for all electric and natural gas utilities subject to their jurisdiction. See, National Energy Policy Act of 1992, Pub. L. No. 102-486, 106 Stat. 2776 *et seq.* (1992).

Thus, this Commission is under both federal and state statutory mandates to conduct

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LCIP proceedings for both gas and electric utilities in order to ensure the public of reliable service at the least cost. Implementation of the LCIP process compares each company's existing system to its forecasted demand and requires the company to plan its future system by obtaining those resources that are the least cost alternatives. Particularly when the company's system is constrained, those resources will include various supply side alternatives as well as a variety of conservation and load management measures. Similarly, when a system is characterized by excess capacity or poor load factors, promotion of demand or certain types of demand may be warranted to bring the system closer to optimality.

While we find that there may be a legitimate role for promotional advertising and activities,

we are certainly less enthusiastic about such expenditures than we are about the promotion of economic conservation. However, one of the goals of the LCIP process is to assure that as far as possible the system never moves very far from optimality. One would expect, therefore, that as the Commission and the companies increasingly employ the LCIP process as a planning tool, expenditures on promotional advertising and activities as a method of influencing the demand curve are likely to become cost effective less frequently. In any case, the costs of any promotional activities that are inconsistent with a utility's LCIP, *i.e.* activities which would result in increased costs to consumers without a countervailing benefit, may be prohibited or, at a minimum, borne totally by stockholders. We believe the requirement that stockholders bear 50% of the costs of such promotional expenditures will provide management with an incentive to act reasonably in budgeting these expenses.

We note that while NEPA has amended some sections of the Public Utilities Regulatory Policies Act of 1978 (PURPA), it has not modified the standard prohibiting promotional advertising and activities. The PURPA standards are in the form of rebuttable presumptions; that is, a particular practice is forbidden unless a state commission after investigation can conclude that in the particular circumstances of the state or utility a contrary finding is warranted. We have now conducted that investigation, and can find that it is appropriate in the current competitive fuel market to allow such promotional advertising and activity that is consistent with a company's LCIP.

Some of the participating utilities have argued that they should not be required to bear any costs related to promotional expenditures because the retention of existing customers and the expansion of customer base would reduce overall rates negating the need for rate increases. Assuming, *arguendo*, that all customer additions tend to decrease costs per unit, the stockholders also benefit to the extent that earnings are increased during periods of regulatory lag, and when earnings are below the last allowed rate of return but not of such a magnitude to justify the filing of a rate case.

The second modification will be to allow the recovery from ratepayers of all expenditures for the promotion of "economic conservation", that is, conservation measures that reduce costs. Although our rules already provide for the recovery of expenditures promoting conservation, the proposed amendment will specify "economic conservation", and provide for cost recovery as part of the utility's Conservation and Load Management plan rather than a general rate filing.

One final note. The gas utilities have raised concerns relative to the fact that least cost planning for gas utilities is still in its infancy and may take some time to develop³⁽²⁶⁾. We agree. However, absent an approved LCIP, the Commission lacks a standard by which to measure whether promotional expenditures are consistent with the long term interests of both ratepayers and stockholders. Therefore, until such time as the State's gas utilities have filed and received approval for their LCIPs and until the State's electric utilities come before the Commission for their next biennial LCIP, we will allow recovery from ratepayers of 50% of any promotional advertising or activities which are consistent with a utility's least cost integrated resource planning, up to 0.3% of that utility's gross revenues where it has not yet filed and received approval of a LCIP which considers promotional expenditures. We find

0.3% to be a reasonable temporary cap in light of our review of the policies of other states and the testimony offered in this case.

Our order will issue accordingly.

Concurring: March 31, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Commission shall develop amendments to N.H. Admin. Rules, Puc 311 and 510 for promulgation through the legislative rules process, which authorize a 50/50 sharing between ratepayers and stockholders for those promotional expenditures which are consistent with a utility's Least Cost Integrated Resource Plan; and it is

FURTHER ORDERED, until such time as the state's utilities have filed and received approval for their LCIPs, we will allow recovery by ratepayers of 50% of any promotional activity which is consistent with a utility's least cost integrated resource planning, up to 0.3% of that utility's gross revenues.

By order of the New Hampshire Public Utilities Commission this thirty-first day of March, 1993.

FOOTNOTES

¹ Although the New Hampshire Licensed Plumbers generally supported the gas utilities' attempt to modify Puc 510, they also raised concerns relative to the subsidization of the utilities' appliance businesses by their monopoly distribution company status. This is not the first time this concern has been raised, and we would request our finance department to investigate whether gas utility appliance sales operations should be separated from the monopoly distribution company to prevent any possible subsidization.

² We would like to thank all of the members of the public, the utility industry, and the General Court that took the time out of their schedules to come to these hearings or draft comments relative to the proposed amendments to Puc 311 and 510. The participation by the public and its representatives provide the type of input that allows us to fully analyze and understand the ramifications of our policies.

³ The Commission has been in the process of developing a LCIP methodology for gas utilities for approximately one year, and will continue with that process.

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NH.PUC*04/02/93*[75043]*78 NH PUC 209*Generic Discounted Rates Docket

[Go to End of 75043]

Re Generic Discounted Rates Docket

DR 91-172
Order No. 20,805
78 NH PUC 209

New Hampshire Public Utilities Commission

April 2, 1993

Supplemental Order Soliciting Comments on a Draft Checklist for Economic Development and Business Retention Special Contracts.

BY THE COMMISSION:

ORDER

On October 19, 1992 by Report and Order No. 20,633, the Commission issued its decision on generic discounted rates and directed its staff to develop a checklist of necessary information to be used as a screen for utilities before filing special contracts for economic development and business retention and as an outline of the information the Commission will require in order to find said contracts are in the public interest; and

WHEREAS, the Commission has reviewed the checklist developed by staff and finds that it conforms with the findings in Report and Order No. 20,633; and

WHEREAS, the Commission welcomes any comments and suggestions on the attached list before it is implemented; it is therefore

ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than April 16, 1993.

By order of the New Hampshire Public Utilities Commission this second day of April, 1993.

CHECKLIST FOR ECONOMIC DEVELOPMENT AND BUSINESS RETENTION DISCOUNTED RATES

On October 19, 1992 by Order No. 20,633, the Commission issued its decision in DR 91-172, the Generic Discounted Rates docket. The Commission found that its existing authority to review special contracts under RSA 378:18 is sufficient to proceed with economic development and business retention filings. Furthermore, the Commission identified and made general findings on many of the broad policy issues it confronted in the proceeding. It, then, directed Staff to develop a

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"checklist" of necessary information that could be used as a screen by utilities before filing special contracts and provided as information to the Commission to justify the reasonableness of the contract.

All special contract filings for a discounted rate should document with a written explanation in the form of testimony and supporting exhibits that:

* a firm applying for a discount is pursuing or has received to the fullest extent possible all other appropriate forms of assistance, including but not limited to assistance for state and local financing and tax, training and relocation assistance, before or in conjunction with a special contract filing with this Commission.

* the firm commits to participating in the utility's Demand-Side Management programs. The firm certifies that it has had an energy audit and the extent to which it has implemented the audit recommendations.

* the rates being offered exceed the utilities long-run marginal costs over the length of the contract.

* the utility's discounted rate offering is consistent with its integrated resource plan.

* the discount does not have any apparent material adverse competitive consequences on other New Hampshire firms.

* the firm is creating or retaining a specified number of jobs, or is materially enhancing its ability to create future jobs.

* the new, expanded or retained load is at least 200 kW or more of billed demand, or 100,000 kWh of billed energy per month or use 1000 MCF of natural gas per month, unless it can be demonstrated that lesser amounts are warranted.

* the firm has obtained all applicable permits before the rate goes into effect.

* the electrical or natural gas requirements of the customer are a significant portion of the customer's operating costs.

* the special contract shall contain detailed terms and conditions, including the effective date, contract length, date of termination, definition of terms, notice of termination provisions, type and amount of service (*i.e.*, firm, interruptible, supplementary), metering and billing provisions, insurance and/or liability requirements, force majeure conditions and date of execution with titles, addresses and phone number of signatories.

It is important to remember that Special Contracts for Economic Development and Business Retention are *not* intended to be a tool to enhance the sponsoring utility's competitive position with respect to another utility's competitive position. Economic development and business retention efforts are concerned foremost with the economic effects of production and employment, and not with a firm's choice of the supplier of its energy needs. While discounts from tariffed rates may aid the State's utilities in retaining and/or expanding load that enhances the economic base of New Hampshire, such a pursuit is not furthered by deleterious in-State economic competition between utilities for existing customers.

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NH.PUC*04/05/93*[75044]*78 NH PUC 211*Post-retirement Benefits Other than Pensions

[Go to End of 75044]

Re Post-retirement Benefits Other than Pensions

DA 92-199
Order No. 20,806

78 NH PUC 211

New Hampshire Public Utilities Commission

April 5, 1993

Report and Order Addressing FAS 106 Accounting for Post-retirement Benefits Other than Pensions.

Appearances: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; David J. Saggau, Esq. for Granite State Electric Company; James Pennington for Connecticut Valley Electric Company; Maebh Purcell, Esq. of LaBoeuf, Lamb, Leiby & MacRae for Northern Utilities, Inc.; Jacqueline Lake Killgore, Esq. of McLane, Graf, Raulerson & Middleton for EnergyNorth Natural Gas, Inc.; Dom D'Ambruoso, Esq. of Ransmeier & Spellman for Hampton Water Company; Larry Eckhaus, Esq., Southern New Hampshire Water Company; Charles Staub for Pennichuck Water Works; Victor Del Vecchio, Esq., for New England Telephone Company; Thomas Platt, Esq., of Orr and Reno for Contel of New Hampshire, Inc. d/b/a GTE NH, Contel of Maine, Inc. d/b/a GTE ME, Kearsarge Telephone Company, Meriden Telephone Company, and Chichester Telephone Company; George R. Gantz, Vice President with UNITIL Service Corporation, representing the UNITIL Companies, Concord Electric Company, Exeter & Hampton Electric Company and UNITIL Power Corporation (collectively referred to as "UNITIL" herein); Mark W. Dean, Esq. of Dean & Broderick for New Hampshire Electric Cooperative; Kenneth Traum of the Office of the Consumer Advocate for residential ratepayers; and E. Barclay Jackson, Esq. of the Staff of the New Hampshire Public Utilities Commission for the Commission.

BY THE COMMISSION:

REPORT

I. Procedural History

In December, 1990, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards numbered 106 (FAS 106 or the Statement). The Statement requires employers to reflect in current expense accounting an accrual for post-retirement benefits other than pensions (PBOP), i.e. an accrual reflected during the working lives of covered employees. The official dates of adoption (Date of Adoption) of the provisions of FAS 106 are: the first new fiscal year beginning after December 15, 1992 (for affected utilities with 500 or more employees) and the first new fiscal year beginning after December 15, 1994 (for affected utilities the 500 or fewer employees).

On December 21, 1992, the New Hampshire Public Utilities Commission's Staff (Staff) sent to all affected New Hampshire utilities Accounting Circular No. 28, to elicit data responses which would assess the impact of FAS 106 and determine appropriate rate treatment of FAS 106

expenses.

The utilities who chose to respond to the Circular (the Companies) did so, as required by the Circular, on or before February 1, 1993.

On March 18, 1993, at a pre-hearing conference two of the Companies, UNITIL and New Hampshire Electric Cooperative (NHEC), chose to participate as observers only in the case. Unitil has no PBOP plans at this point and NHEC is below the 500 employee threshold which triggers FAS 106 jurisdiction.

At the March 18, 1993 pre-hearing conference before the Commission, the remaining Companies, the Office of the Consumer Advocate (collectively the Parties) and Staff agreed on resolution of the issues raised by FAS 106. Further, informal, discussions among all Parties and Staff occurred on March 19 and March 23, 1993 to draft a stipulation (Stipulation) representing the agreement.

At a hearing on the merits held on March 24, 1994, the Parties and Staff presented the Stipulation as Exhibit 12 (appended as Appendix A hereto and made a part hereof).

Testimony and exhibits were presented at the hearing to support the Stipulation.

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II. Recommendations of the Companies and Staff

The Staff and the Parties recommended to the Commission a policy of recognizing in rates the full accrual of PBOP expenses consistent with the accounting principles set forth in FAS 106. An exception to this broad policy was recommended to permit NET to recognize in rates the *net* expense of its accounting plan, with permission to seek full accrual in the future. The rationale for this exception was set forth in testimony of Mr. Stanley M. Baker.

To implement the recommended policy, Staff and the Parties proposed that each utility shall submit documentation to the Commission in support of its FAS 106 expenses and accumulated post-retirement benefit obligation (APBO). The Commission shall then, at dates determined in its discretion, approve rate recovery for prudently incurred FAS 106 expenses and APBO. The specific date of the Commission's approval would then be considered each company's date of implementation of FAS 106 (Date of Implementation). The APBO portion of the FAS 106 liability would be amortized over a twenty (20) year period from the Date of Implementation. Anticipated Dates of Implementation, reflecting the individual, case by case consideration of each company's supporting documentation by the Commission, is found on Table 1, page 4 of the Stipulation.

Staff and the Parties recommended that the PBOP expenses incurred between the Date of Adoption of FAS 106 and the Date of Implementation of new rates should be deferred. These deferred amounts would then be amortized and recovered in rates over a period of five (5) years. The amortization period would begin at the Date of Implementation.

Staff and the Parties recommended that the Companies should utilize irrevocable external trusts for the purpose of funding PBOPs, with the exception of those with special circumstances, specifically Southern New Hampshire Water Company, Connecticut Valley Electric Company,

Pennichuck Water Works, Contel of New Hampshire, Inc. d/b/a/ GTE NH and Contel of Maine, Inc. dba GTE ME, and the Kearsarge, Meriden, and Chichester Telephone Companies (Special Circumstance Companies). The Companies would be required to make contributions to the irrevocable external trusts in amounts on a quarterly basis of not less than the full accrual expense. NET would be permitted to make contributions equal to or greater than the amount recovered in rates.

Staff and the Parties recommended that each utility be required to maximize the use of tax deductions for contributions to the irrevocable external trusts and that deferred tax assets resulting from non-deductible contributions be allowed as a rate base addition.

Staff and the Parties recommended that disbursements made from the irrevocable external trusts be limited to three categories: payments for the benefit of employees pursuant to the Company's post-retirement plans, payments for expenses of the trust, and refund payments to ratepayers pursuant to a Commission approved refund plan in the event the funds are not paid to employees. Refund payments to ratepayers, should they be required, would be net of applicable taxes and amounts transferred to other employee benefit plans, if any, in accord with FAS 87 and generally accepted accounting principles.

The special circumstances distinguishing the seven Special Circumstance Companies would include one or more of the following factors: the relatively small size of their funds and accruals, their relationship with larger affiliates who do not externally fund, employee demographics and union status, administrative costs and/or the limited availability of external funding vehicles.

For the Special Circumstance Companies, Staff and the Parties recommended that any unfunded amounts included in rates be treated as a rate base reduction, offset by taxes. Any settlement, curtailment, or other change in a Special Circumstance Company's unfunded PBOP plan, which results in a substantial decrease in accruals as defined in FAS 106, would be amortized as provided by FAS 106 or pursuant to a Commission approved refund plan.

III. *Commission Analysis*

Having reviewed the Stipulation and the testimony and exhibits presented by Staff and

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the Companies, we are persuaded that the terms of the Stipulation result in a just and reasonable administration of the general requirements of FAS 106. Accordingly, we will approve the Stipulation, consistent with our following discussion of its provisions, but we will withhold judgment of the Stipulation as it applies to Public Service Company of New Hampshire (PSNH). The language of the Rate Agreement entered into by Northeast Utilities Service Company, acting on behalf of its parent Northeast Utilities, and the Governor and Attorney General of the State of New Hampshire, acting on behalf of the State of New Hampshire (Rate Agreement), and dealing with the reorganization of (PSNH), deserves review to ascertain whether rate increases resulting from FAS 106 are specifically authorized above the 5.5% annual rate increase. In order to fully explore the ramifications of the Rate Agreement as it affects these PBOP expenses for ratemaking purposes, we will request PSNH and invite other parties in interest to submit legal memoranda on the issue.

In reaching our determination to approve the Stipulation except as it relates to PSNH, we have evaluated the testimony regarding the benefits of the accrual method of accounting for PBOPs. This Commission has in the past recognized the cost of PBOPs as a component of utility expenses for ratemaking purposes on a pay-as-you-go basis, that is, as the PBOP is paid it was allowed as an expense. Paragraph 364 of FAS 106 permits regulators to continue the pay-as-you-go policy. However, PBOPs are earned by employees during their working lives, not after they retire. The accrual method matches the actual cost of service, setting aside PBOPs as they are earned, better than does the pay- as-you-go method. The Commission, therefore, adopts the full accrual method for ratemaking purposes.

Ratepayers will be protected by this Stipulation in several ways. First, no recovery of PBOP costs will be permitted without Commission review and approval of clear and adequate documentation of such costs. The prudence of costs incurred and the actions taken to lessen the impact of PBOP expenses, through maximizing of tax deductions, will be carefully reviewed. We will evaluate steps each company takes to minimize health costs, including for instance, the use of HMO's, etc. Further, we will require an annual report on the status of each company's plan, and a descriptive summary of all actions taken to mitigate the cost of the plan, as well as updated assumptions.

The Stipulation protects both ratepayers and employees of utilities by its requirement for an irrevocable trust, outside the company's control, to fund PBOPs. In addition deviation from this requirement, permitted for specially circumstances companies, also provides protection: the Special Circumstance Companies are required to make refunds to ratepayers in the event that plans change substantially. We will require that all companies file for Commission approval prior to making any major plan changes.

If, upon a future review by this Commission of the Company's PBOP costs and revenue requirements, we determine that an alternative to full recognition of FAS 106 accrual is more appropriate for ratemaking purposes, we can make an order to that effect.

In order to facilitate the effective review of documentation submitted by companies in support of FAS 106 expenses for ratemaking purposes (as required by the Stipulation on page 3), each company, with the exception of PSNH, shall file such documentation at least 45 days prior to the proposed Implementation 4). PSNH shall be notified of its filing obligations upon review of the legal memoranda ordered submitted herein.

Our order will issue accordingly.

Concurring: April 5, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the Stipulation entered into between Staff and all Parties, which is appended hereto as Appendix A, is hereby accepted, approved, and adopted, with the exception of the portions of the Stipulation as it applies to PSNH; and it is

FURTHER ORDERED, that judgment is withheld with regard to the portions of the Stipulation as it applies to PSNH; and it is

FURTHER ORDERED, that PSNH and other parties in interest may submit briefs on the issue of the interplay of the Rate Agree-

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ment and FAS 106, such briefs to be filed no later than April 14, 1993; and it is

FURTHER ORDERED, that the companies shall file annual reports on the status of their respective PBOP plans; and it is

FURTHER ORDERED, that the companies shall file for Commission approval prior to making any major plan changes; and it is

FURTHER ORDERED, that each company, with the exception of PSNH, shall file documentation in support of FAS 106 expenses for ratemaking purposes at least 45 days prior to the proposed Implementation Dates.

By order of the Public Utilities Commission of New Hampshire this fifth day of April, 1993.

APPENDIX A

STIPULATION

I. INTRODUCTION

This Stipulation (Stipulation) is jointly submitted to the New Hampshire Public Utilities Commission (Commission) by the Commission Staff (Staff) and following parties: the Office of the Consumer Advocate (OCA); Public Service Company of New Hampshire (PSNH); Granite State Electric Company (Granite State Electric); Connecticut Valley Electric Company (CVEC); Northern Utilities, Inc. (Northern); EnergyNorth Natural Gas, Inc. (ENGI); Hampton Water Company (Hampton); Southern New Hampshire Water Company (Southern); Pennichuck Water Works (Pennichuck); New England Telephone Company (NET); Contel of New Hampshire, Inc. d/b/a GTE NH (GTE NH), Contel of Maine, Inc., d/b/a/ GTE ME (GTE ME) (GTE NH and GTE ME herein collectively GTE); Kearsarge Telephone Company (KTC), Meriden Telephone Company (MTC) and Chichester Telephone Company (CTC) KTC, MTC and CTC (herein collectively "TDS"); together the "Parties". The Stipulation resolves all issues among the Parties in this proceeding. A summary of the procedural history, the background to FASB 106, and the terms of the Stipulation are set forth below. The Parties request that the Commission adopt this Stipulation by April 1, 1993, as final resolution of this proceeding.

II. FAS 106 BACKGROUND

In December 1990, the Financial Accounting Standards Board (FASB) issued the "Statement of Financial Accounting Standards No. 106" (FAS 106) — Employers' Accounting for Postretirement Benefits Other than Pensions (PBOPs) (i.e., health care, group life insurance, and other types of benefits other than pensions). For fiscal years beginning after December 15, 1992, FAS 106 and generally accepted accounting principles (GAAP) require companies to accrue as a current expense the projected cost of PBOPs during the working lives of eligible employees as the respective benefits are earned. Traditionally, these costs have been charged to expense under the "pay-as-you-go" method at the time the benefits have been paid rather than when they were earned.

A component of the PBOP to be accrued in accordance with FAS 106 is the transition obligation. FAS 106 defines the transition obligation as the unfunded and unrecognized accumulated postretirement benefits obligation (APBO) for all eligible employees at the date FAS 106 is adopted. FAS 106 allows companies to amortize their APBO liability for up to 20 years.

III. PROCEDURAL HISTORY

On or about December 21, 1992, the Staff circulated to all New Hampshire utilities Accounting Circular No. 28 to assist the Commission in assessing the impact of FAS 106 and to determine the appropriate rate treatment of FAS 106 expenses. On February 1, 1993, the utilities submitted their responses to Accounting Circular 28 and filed direct testimony outlining their individual positions with respect to ratemaking treatment of their FAS 106 expenses.

A prehearing conference was held on March 18, 1993, to organize and focus the issues to be addressed at the forthcoming hearings, scheduled for March 23, 24 and 25.

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During informal discussions at the prehearing conference, the Parties reached agreement on the general conditions for rate recovery of the FAS 106 and PBOP liabilities, and on the procedures for implementation of the rate treatment for FAS 106 recovery. Accordingly, the Parties have entered into this Stipulation as final resolution of all issues in this generic proceeding. Specifically, the Parties agree as follows:

IV. STIPULATION

1. Utilities shall be allowed to recognize in rates the full accrual of PBOP expenses consistent with the accounting principles set forth in FAS 106. NET shall be allowed to recognize in rates the net expense of their accounting plan, as set forth in the testimony of Stanley M. Baker in this docket, until such time as it seeks full accrual.

2. Each utility shall submit to the Commission documentation in support of its FAS 106 expense and APBO. The APBO portion of the FAS 106 liability shall be amortized over a twenty year period. FAS 106 expenses for each company shall be reflected in rates on the following effective dates, which relate to the unique circumstances of each utility:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

TABLE 1

Utility

CVEC

Granite State Electric

PSNH

Northern

ENGI

Hampton

Pennichuck

Southern

GTE

NET

CTC

MTC

KTC
by Staff).

3. The utilities required to adopt FAS 106 will be allowed for rate treatment to defer the amounts of the PBOP expenses incurred between the date of adoption and the date of implementation of the new rates reflecting the PBOP expenses. These deferred amounts shall be amortized and recovered in rates over a period of five years. This specific amortization period should be determined in connection with each utility's rate filing prescribed by Section 2.

4. The utilities, with the exception of Southern, CVEC, Pennichuck, GTE, and the three TDS companies (collectively the Special Circumstance Companies) agree to utilize external trusts for the purpose of funding PBOPs. The seven Special Circumstance Companies will not be required to maintain external funding. The special circumstances include one or more of the following factors: the relatively small size of their funds and accruals, their relationship with larger affiliates who do not externally fund, employee demographics and union status, administrative costs and/or the limited availability of external funding vehicles.

5. Each utility, other than the Special Circumstance Companies shall make contributions to an external trust fund in the amounts

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that are on an annual basis not less than the full accrual FAS 106 expense. NET shall be allowed to fund amounts equal to or greater than the amount recovered in rates.

6. All companies utilizing an external trust, either in whole or in part, must utilize a trust which provides that any disbursements made from the trust are limited to payments for the benefit of employees pursuant to the Company's post-retirement plans, payments for expenses of the trust, and refunds to customers pursuant to a Commission approved refund plan in the event the funds are not paid to employees. The amount to be refunded shall be net of applicable taxes and amounts transferred to other employee benefit plans, if any, in accord with FAS 87 and GAAP. The trustee must be independent of the Company and authorized to make only those investments which are consistent with sound investment policies for funds of this nature.

7. Each utility shall maximize the use of income tax deductions for contributions to external trusts. Deferred tax assets resulting from nontax-deductible contributions to external trusts shall be allowed as a rate base addition.

8. For the Special Circumstance Companies any unfunded amounts included in rates will be treated as a rate base reduction, offset by taxes. With respect to any unfunded portion of such company's PBOP plan, any settlement, curtailment, or other change in such plan, which results in a substantial decrease in accruals as defined in FAS 106 shall be amortized as provided by FAS 106 or pursuant to a Commission approved refund plan.

V. MISCELLANEOUS PROVISIONS

1. Other than as expressly stated herein, this Stipulation shall not be deemed to foreclose any Party from making any contention in any future proceeding or investigation.

2. Other than as expressly stated herein, the approval of this Stipulation by the Commission shall not in any respect constitute a determination as to the merits of any issue in any other proceeding.

3. This Stipulation is the product of settlement negotiations. All offers of settlement shall be without prejudice to the position of any Party presenting such offer.

4. This Stipulation is submitted on the condition that it be approved in full by the Commission, and on further condition that if the Commission does not approve this Stipulation in its entirety, this Stipulation shall be deemed withdrawn and shall not constitute a part of the record in this or any other proceeding or be used for any purpose.

VI. CONCLUSION

The Parties respectfully request the Commission to adopt this Stipulation as a final resolution of all issues in this proceeding.

In witness whereof, the Parties have executed this Stipulation, dated March 23, 1993.

E. Barclay Jackson New Hampshire Public Utilities Commission Staff Dated 3/23/93

Kenneth E. Traum Office of Consumer Advocate Dated 3/23/93

Gerald M. Eaton Public Service Company of New Hampshire Dated 3/24/93

David Saggau Granite State Electric Company Dated 3/23/93

Kenneth Picton Connecticut Valley Electric Company, Inc. Dated 3/24/93

Meabh Purcell Northern Utilities, Inc. Dated 3/23/93

Michelle Chicoine EnergyNorth Natural Gas, Inc. Dated 3/24/93

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Dom S. D'Ambruoso Hampton Water Company Dated 3/23/93

Larry S. Eckhaus Southern New Hampshire Water Company Dated 3/24/93

Charles Staab Pennichuck Water Works Dated 3/24/93

Victor Del Vecchio 3/24/93 New England Telephone Company Dated 3/24/93

Dale E. Sperleder Contel of New Hampshire, Inc. d/b/a GTE NH Contel of Maine, Inc. d/b/a GTE ME Dated 3/24/93

Robert J. Collins Kearsarge Telephone Company Meriden Telephone Company Chichester Telephone Company Dated 3/24/93

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NH.PUC*04/07/93*[75045]*78 NH PUC 217*Belleau Lake Corporation d/b/a/ Belleau Lake Water System

[Go to End of 75045]

Re Belleau Lake Corporation d/b/a/ Belleau Lake Water System

DC 92-231

Order No. 20,807

78 NH PUC 217

New Hampshire Public Utilities Commission

April 7, 1993

Report and Order Granting Temporary Franchise and Rates to Facilitate Permanent Transfer of System to Customers.

Appearances: Earnest J. Belleau, Jr. on behalf of Belleau Lake Water System and Eugene F. Sullivan, III, Esq. on behalf of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

In the fall of 1991 Lakes Region Water Company, a franchised public water utility in the State of New Hampshire, filed a petition to acquire Belleau Lake Water System (Belleau Lake). Subsequently, the petition was withdrawn.

On October 30, 1992, the Commission Staff (Staff) contacted Belleau Lake and informed it that it must apply for permission to operate in the State of New Hampshire. RSA 374:22 and 26. The October 30, 1992, also informed Belleau Lake that it could not charge rates without prior Commission review and approval. RSA chapter 378.

On December 18, 1992, the Commission received a copy of correspondence sent to customers from Belleau Lake informing them that their annual rates had increased to \$130 per year, and that the Company would be abandoning the system in eight months to give the customers time to make arrangements for an alternative source of service.

Consequently, the Commission issued Report and Order No. 20,711 ordering Ernest J. Belleau, Jr. as agent and owner of Belleau Lake to show cause why he should not be fined or subject to criminal prosecution for failure to abide by State law relative to utility operations (Report and Order No. 20,711 was superseded by Report and Order No. 20,725 which changed the date of the hearing to February 11, 1993.)

On February 11, 1993, the Commission held a duly noticed hearing at which time Mr. Belleau and a number of customers appeared. Mr. Belleau indicated that he was not interested in owning the water system and merely wanted to sell the system to his customers. The customers in attendance indicated that they were interested in purchasing the system but could make no commitment to do so without the approval of their fellow customers, many of whom reside out of State during the winter months.

Thus, both Mr. Belleau and the customers in attendance requested that the Commission continue these hearings until the end of the summer months and that Mr. Belleau be allowed to charge each customer \$55 for six months of service and as consideration for the transfer of the water system.

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IV. COMMISSION ANALYSIS

The Commission finds that it is in the public good to continue these hearings until August 3, 1993, to facilitate the sale of the utility to its customers.

Therefore, Belleau Lake is granted temporary authority pursuant to RSA 374:22 and 26 to operate a public water utility in the Town of Wakefield until August 30, 1993. In support of this grant of temporary authority the Commission notes that Mr. Belleau has operated the Belleau Lake Water System without complaint for many years. However, should the system remain under the ownership of Mr. Belleau as of August 31, 1993, we will conduct a full investigation into his financial, managerial and technical competence to operate the subject utility.

Furthermore, the Commission finds, based upon review of similarly situated water utilities, that six months of service for \$55 is just and reasonable. This finding is further supported by the fact that the \$55 fee is also consideration for the sale of the utility.

Our order will issue accordingly.

Concurring: April 7, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that this matter be continued until August 3, 1993, for further action by the Commission; and it is

FURTHER ORDERED, that Belleau Lake Water System is granted a temporary franchise until August 30, 1993, and the right to charge customers the sum of \$55 in advance for service from the date of this order until August 30, 1993.

By order of the New Hampshire Public Utilities Commission this seventh day of April, 1993.

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NH.PUC*04/08/93*[75046]*78 NH PUC 218*Pennichuck Water Works, Inc.

[Go to End of 75046]

Re Pennichuck Water Works, Inc.

DR 91-220
DR 91-068
Order No. 20,808
78 NH PUC 218

New Hampshire Public Utilities Commission

April 8, 1993

Report and Order Granting Franchises and Establishing Rates for Two Subdivisions Commonly Known as Maple Haven and Glen Woodlands.

Appearances: Gallagher, Callahan & Gartrell by John B. Pendleton, Esq. on behalf of Pennichuck Water Works, Inc. and Eugene F. Sullivan III, Esq. on behalf of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On May 21, 1991, and December 23, 1991, respectively, Pennichuck Water Works, Inc. (Pennichuck or the Company) filed petitions to serve a limited area of the Town of Epping, commonly known as, and hereafter referred to as, Glen Woodlands, and a limited area of the Town of Derry commonly known as, and hereinafter referred to as, Maple Haven. Pennichuck also petitioned to establish rates for the water systems installed in these developments simultaneously with the grant of a franchise based on the arms-length, negotiated price it paid for the systems.

II. *BACKGROUND*

Glen Woodlands and Maple Haven are both residential home developments in which the developer installed a community water system to provide water service to the homes being constructed and sold. The two systems were originally consolidated with two other such systems for similar consideration by the Commission. *See, Re Pennichuck Water Works, Inc.*, Report and Order No. 20,610 (September 22, 1992).

However, on September 3, 1992, Pennichuck submitted a letter to the Commission

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asking it to delay consideration of the Company's petitions relative to these two systems because of the possible adverse rate impact of a recent private letter ruling of the Internal Revenue Service (IRS). See Attachment A.

On November 25, 1992, Pennichuck submitted revised testimony relative to the systems' ratebase in light of the private letter ruling of the IRS and an interpretation by the Company's external auditor, Arthur Anderson & Company, of the letter ruling's effect on the purchase of the two systems.¹⁽²⁷⁾

Based on this interpretation of the IRS letter ruling, the Company's proposed ratebase for Glen Woodlands increased from \$39,642 to \$86,484, or an increased annual revenue requirement of \$3,665, and increased the proposed ratebase for Maple Haven from \$35,511 to \$63,226, or an increased annual revenue requirement of \$3,018 (plus the annual amortization expense on the "contributed" capital).²⁽²⁸⁾

III. POSITIONS OF THE COMPANY AND STAFF

Both the Company and Staff argued that Pennichuck's acquisition of the two systems was in the public good. RSA 374:22 and 26.

The Company went on to support the inclusion in ratebase of the tax consequences of the purchase.

Staff did not object to the inclusion of the tax consequences in ratebase. However, it recommended the Commission contact the New Hampshire Department of Justice (Attorney General) and request it to challenge the position of the IRS in Federal Court via either a petition for declaratory judgment or litigation of the IRS treatment of the acquisitions by Pennichuck. (Pennichuck agreed to provide the State with standing to challenge the tax treatment of these two acquisitions, in order to facilitate the second option.)

Staff based its position on the inequity of forcing ratepayers (the homeowners) to pay once again for a water system they have already paid for in the price of their homes (assuming the developer expensed the costs of the system against the revenues generated from the home sales), forcing ratepayers to pay federal income taxes through rates on assets that were exchanged at fair market value (and written off as a loss for tax purposes by the developer if the costs were not expensed), and because this shortsighted policy of the IRS to garnish tax revenues via its interpretation of contributions in aid of construction is inapposite to this State's and the United States Environmental Protection Agency's policy of encouraging the acquisition of small water utilities by larger more competent utilities with the staffs and expertise to deal with the treatment and monitoring requirements of the Safe Drinking Water Act.

IV. COMMISSION ANALYSIS

This case presents three issues for Commission consideration: 1) whether the acquisition of these two systems by Pennichuck is in the public good; 2) whether the tax consequences of the acquisitions should be capitalized and included in the Company's ratebase; and 3) what actions, if any, should be taken by this Commission relative to the new policy of the IRS to determine "value" based on reconstruction cost versus fair market value as established by the purchase price in an arms-length transaction.

1. Pursuant to RSA 374:22;26 the Commission must determine whether the acquisition and franchising of a public water utility to a particular individual or entity is in the public good. In this context, the Commission has construed the public good standard to require a showing of the managerial, financial and technical expertise of the petitioning entity or individual to operate the

proposed utility. We have consistently held that Pennichuck has the managerial, financial and technical expertise to operate a public water utility. *See eg., Re Pennichuck Water Works, Inc.*, 73 NH PUC 279, 280 (1988).

Furthermore, the Company has fulfilled the requirements of RSA 374:22,III (Supp. 1992) and provided letters from the relevant municipalities indicating their acquiescence in the request for a franchise.

Thus, the Company's requests for franchises are granted.

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2. The policy of this Commission has been to set the value of ratebase at its actual cost to the Company, i.e., book value, unless some other factor (such as a detriment or a compliment to the overall performance of a system) is demonstrated to the Commission either increasing or decreasing the "value" of the assets. Thus, the Commission has allowed utilities to include the tax consequences of contributions in aid of construction, such as developer funded main extensions, in the computation of ratebase. We see no reason to change this policy in the instant case and will allow the Company to include the tax consequences of its acquisitions in its computation of ratebase.

3. We agree with Staff that this "new" policy of the IRS to treat any amount paid by a utility less than the reconstruction cost of the plant acquired as a taxable contribution in aid of construction is regressive and contrary to the stated policies of this Commission. We also believe that the IRS policy is contrary to stated policies of the New Hampshire Department of Environmental Services (DES) and the United States Environmental Protection Agency (EPA). We, therefore, find it in direct conflict with the "public good". All of these agencies, in recognition of the substantial costs of monitoring and treatment under the Safe Drinking Water Act, have encouraged the acquisition of developer owned water distribution systems by established and competent water utilities.

Thus, we believe that the acquisition of developer owned water systems by established and competent water utilities in the State of New Hampshire are "a benefit to the public as a whole..." and is a significant "motivating factor in the transfers." Notice 87-82, 1987-2 C.B. 389, quoting H.R. Rep. No. 99-426, 99th Cong., 1st Sess. 644-645. Therefore, we do not believe the current policy of the IRS is necessarily applicable to these transactions, or many others, in this State.

Furthermore, because the New Hampshire Commission uses "book value" in setting rates the effect of this IRS policy is to merely inflate the rates to be paid by the customer. Thus, this new policy of the IRS defeats the goals set by the Commission, DES and the EPA to ensure "small system viability" by encouraging the acquisition of developer owned systems by larger, competent companies whose business it is to operate water utilities not to build homes.

In fact, at the hearing on this matter Pennichuck made it clear that it would no longer acquire such systems because the IRS treatment made them "uneconomic" investments. That is, the increased cost associated with such acquisitions because of the tax consequences resulted in rates to customers too high to justify.

In practice, the effect of this interpretation of the tax code is punitive, burdening ratepayers with higher rates because the State, with the encouragement of EPA, is seeking competent management to operate deficient water systems.

Thus, we direct our Staff to meet with the Company, the Department of Justice, and any other entity or State agency that may have an interest or input into this process to engage in a process that determines the parameters of the IRS decision in an effort to avoid its regressive ramifications, and make recommendations no later than June 1, 1993 regarding any future course of action that should be taken relative to the IRS private letter ruling.

Our order will issue accordingly.

Concurring: April 8, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Pennichuck Water Works, Inc. is granted a franchise to operate a public water utility in that area of the Town of Epping known as Glen Woodlands and more particularly described in Attachment B appended hereto; and it is

FURTHER ORDERED, that Pennichuck Water Works, Inc. is granted a franchise to operate a public water utility in that limited area of the Town of Derry known as Maple Haven and more particularly described in Attachment C appended hereto; and it is

FURTHER ORDERED, that Pennichuck Water Works, Inc. shall file tariff pages setting a rate for water usage in Glen Woodlands

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based on an annual revenue requirement of \$24,047 in the manner set forth in the testimony of Bonalyn J. Hartley; and it is

FURTHER ORDERED, that Pennichuck Water Works, Inc. shall file tariff pages setting a rate for water usage in Maple Haven based on an annual revenue requirement of \$20,632 in the manner set forth in the testimony of Bonalyn J. Hartley; and it is

FURTHER ORDERED, that our Staff take the steps set forth in the forgoing Report relative to the tax consequences of water system acquisitions and report back to us any relevant information for our further consideration.

By order of the New Hampshire Public Utilities Commission this eighth day of April, 1993.

FOOTNOTES

¹ The letter ruling (LTR 9125009, March 19, 1991) concludes that a utility must treat as income the reconstruction cost of developer owned systems less any money paid for the system, even though the transaction was at arms length and represented the fair market value of the system, and the regulatory body used "book value" as a basis for setting rates. See Attachment A.

² However, in this particular case the Company's adjusted revenue requirement for the two systems after factoring in the tax consequences of the IRS ruling was \$24,047 for Glen Woodlands and \$20,632 for Maple Haven.

Attachment A

Letter Ruling, Letter Ruling 9125009 — — Letter Ruling 9125009, March 19, 1991 CCH IRS Letter Rulings Report No. 747, 06-26-91 IRS REF: Symbol: CC:P&SI:5-TR-31-1299-90

Uniform Issue List Information: UIL No. 0118.00-00 Contributions to capital of corporation [Code Sec. 118]

This is in response to a letter dated March 30, 1990, submitted by your authorized representatives requesting a letter ruling relating to the valuation of a contribution in aid of construction (CIAC), within the meaning of section 118(b) of the Internal Revenue Code. The relevant facts as represented are stated below.

Taxpayer was incorporated under the laws of the State A on b. Taxpayer's principal office is located in City B and files its federal income tax returns with the District Director in City H. Taxpayer operates and maintains a total of c satellite water supply systems ranging in size from d to e customers with a combined total of approximately f residential connections.

Taxpayer has tentatively entered into a contract with Corp C, the developer of the D residential development including the D Water System. The contract is for the purchase of a self-contained and self-sustaining satellite water supply system complete with well, well pumps, storage standpipe, booster pump station, distribution mains, service lines, and related facilities to provide water supply service for g residential sites. The system is located in the proposed plat of D in the E of County F. Corp C's estimated cost of construction is \$h.

The proposed plat is located in an unincorporated area of County F near City G. City G originally contended that D should be a part of City G's future service area in accordance with the County F Coordinated Water System Plan (CWSP) Area-wide Supplement, which was approved in i.

Under the CWSP, however, Corp C was able to request service from a satellite system management utility, in this case Taxpayer. The reasons for Corp C making this request were threefold:

1. City G's offer to provide water services to D would have required Corp C to expend significantly more to construct a line extension to tie into the City G's existing system. (City G will not operate satellite systems).
2. City G's offer was for the assumption of future liabilities only, no cash consideration was offered, as was the case with Taxpayer.
3. Taxpayer has expressed a genuine interest in owning and operating the system from the pre-planning stages (prior to CWSP) of the development. Additionally, Taxpayer was willing to offer Corp C cash consideration of \$j.

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— Continued Page 2 —

Under the CWSP, Corp C could have requested service from any other neighboring utility company or satellite system management utility. It is further represented that if

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Corp C determines that Taxpayer will not be able to provide quality economical service (*i. e.*, if Taxpayer has to pay an amount in excess of agreed upon value), it is free to solicit other offers for the system or operate the system itself if so desired.

As is common in the water utilities industry, Corp C does not want to continue to own or operate the D system primarily because the assumption of the intendment liability is incompatible with its business of developing and constructing homes for sale. As noted above, Corp C has currently received two offers for the D system. One offer is from the City G for assumption of future liabilities and the other offer is from Taxpayer for \$j plus assumption of future liabilities.

The State A Utilities and Transportation Commission (the Commission) currently allows Taxpayer to charge the same water rate to all residential connections regardless of the size of the satellite system based on the combined net plant values of all satellite systems. Under these conditions, Taxpayer's capital recovery costs are being paid by each customer on the basis of the average in service net plant value per customer.

The Commission will not allow Taxpayer to purchase the D system for more than \$k per rate paying customer if Taxpayer wants to spread the cost of the system over its entire base of customers. Taxpayer is not precluded from purchasing the system for an amount in excess of \$j. The Commission, however, would not allow Taxpayer to spread any excess cost over Taxpayer's entire customer base. Taxpayer instead would have to recover this excess cost directly from the D users resulting in rates far in excess of the prevailing market for residential water services.

Corp C and Taxpayer are fully independent of each other and not related in any way. The Commission has approved Taxpayer's proposed purchase at the above price pending the outcome of this ruling request.

Taxpayer desires to purchase the D self sustaining water system from Corp C in an independently negotiated arms length transaction for \$j. Taxpayer believes \$j is the price at which the property would change hands between a willing buyer and a willing seller, and that the difference between \$h (Corp C's estimated cost to investment) and the purchase price of \$j should not be considered a contribution in aid of construction under section 118(b) of the Code. Taxpayer further represents that if it is not permitted to purchase the D system for \$j, it will not execute the existing purchase contract.

Section 118(a) of the Code provides that in the case of a corporation, gross income does not include any contribution to the capital of the corporation.

Section 118(b) of the Code provides that for purposes of subsection (a), the term "contribution to the capital of the taxpayer" does not include any CIAC or any other contribution as a customer or potential customer.

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— Continued Page 3 —

Prior to the Tax Reform Act of 1986 (the 1986 Act), former section 118(b) of the code allowed certain regulated public utilities to exclude from gross income contributions to the capital of the corporation made by a customer of potential customer in aid of construction. Section 824 of the 1986 Act amended section 118(b) and, in effect, repealed this special exclusion.

The effect of section 824 of the 1986 Act on section 118(b) of the Code is to require a utility to report:

as an item of gross income the value of any property, including money, that it receives to provide, or encourage the provision of, services to or for the benefit of the person transferring the property. a utility is considered as having received property to encourage the provision of services if the receipt of the property is a prerequisite to the provision of the services, if the receipt of the property results in the provision of services earlier than would have been the case had the property not been received, or if the receipt of the property otherwise causes the transferor to be favored in anyway. H.R. Rep. No. 99-426, 99th Cong., 1st Sess. 644 (1985), 1986-3 C.B. 644, Vol.2, (House Report).

The House Report provides that:

The person transferring the property will be considered as having been benefited if he is the person who will receive the services, an

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owner of the property that will receive the services, a former owner of the property that will receive the services, or if he derives any benefit from the property that will receive the services. Thus, a builder who transfers property to a utility in order to obtain services for a house that he was paid to build will be considered as having benefited from the provision of the services. This will be the case despite the fact that the builder may never have had an ownership interest in the property and may never have had an ownership interest in the property and may make the transfer to the utility after the house has been completed and accepted. *Id.* at 644-5.

Notice 87-82, 1987-2 C.B. 389, provides additional guidance with respect to the amendment to section 118(b) of the Code by the 1986 act. Section III of Notice 87-82 provides that:

A utility shall include in income the amount of any cash received as a CIAC and the fair market value of all property received as a CIAC. If the property received by the utility will be used in the provision of utility services, all of the relevant facts and circumstances are taken into account in determining the fair market value of the property. *Absent unusual circumstances, normally the value of such property provided to a utility is the "replacement cost" of the property, i.e., the cost that another party would incur to construct property that is functionally similar to the subject property and thus could replace such subject property in the performance of the property's intended function.* The fact that property received as a CIAC is not included in the utility's rate base or cost of service for regulatory purposes shall not, in any manner, affect the determination of the fair market value of the property for this purpose. See Rev. Rul.

87-117, 1987-46 I.R.B. 8 (Emphasis Added.)

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— Continued Page 4 —

It is represented that C's estimated cost of constructing the D Water System is \$h. It is further represented that Taxpayer is willing to pay Corp C \$j for the D Water System and Taxpayer is willing to assume future liabilities relating to the system.

Based upon the facts and representations stated above, if Taxpayer acquires the D Water Systems under section III of Notice 87-82, the fair market value of the D Water System would be determined under the "replacement cost" method. In the instant case, we rule that the fair market value of the D Water System would be \$h, the replacement cost, because \$h is the cost that another party would incur to construct the property that is functionally similar to the D Water System, and, thus, could replace the D Water System in the performance of the property's intended function. We further rule that the difference between the replacement cost of \$h and the purchase price of \$j, or \$n, shall be treated as a CIAC, and, therefore, \$n shall be included in Taxpayer's gross income.

No opinion is expressed or implied regarding the application of any other sections of the Code or regulations that may be applicable thereto that are not specifically set forth by the above rulings.

This ruling is directed only to the taxpayer who requested it. Section 6110(j) (3) of the Code provides that it may not be used or cited as precedent. Pursuant to the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

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ATTACHMENT B

Glen Woodlands, Epping, NH Description of Franchise Boundary

The Epping franchise area will include all property within the following boundary:

Beginning at a point on Rt. 101 at the intersection with the Piscassic River,

running easterly along Rt. 101 to the town boundary with Brentwood,

then following the town boundary line to the southeastern corner of the town,

then northerly along the Epping town boundary line with Exeter and Newfields to the intersection of Jacobswell Road,

then westerly along Jacobswell Road and Campground Roads to the easterly side of Rt. 125 (Calef Road),

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then southerly along the east side of Rt. 125 to the intersection with Exeter Road,

then southeasterly in a straight line to the beginning point.

ATTACHMENT C

Maple Haven, Derry, NH Description of Franchise Boundary

The Maple Haven franchise area will include all properties abutting the following roadways:
Damren Road running northerly from Hampstead Road to the inter- section with Walnut Hill
Road

- Kristin Drive
- Peter Circle
- Nutmeadow Lane
- Wryan Lane
- Butternut Lane
- Jessica Drive

=====

NH.PUC*04/09/93*[75047]*78 NH PUC 224*Olde County Water System

[Go to End of 75047]

Re Olde County Water System

DE 89-027
Order No. 20,809
78 NH PUC 224

New Hampshire Public Utilities Commission

April 9, 1993

Order *Nisi* Rescinding Franchise Granted to Olde County Water System Reflecting Takeover of System by the Town of Derry.

BY THE COMMISSION:

ORDER

The Town of Derry advised the commission on March 30, 1993 that it is now providing municipal water to the Olde County Water System, which is located entirely within the municipal boundaries of the Town of Derry.

The Olde County Water System was granted a franchise to operate as a water utility by the commission on October 10, 1989 in docket DE 89-027, Order No. 19,564. The parties contemplated during those proceedings the possible takeover of the system by the Town of Derry.

Municipal utilities operating within their municipal boundaries are exempt from regulation by the public utilities commission pursuant to RSA 362:2 and :4. Accordingly, unless information is received from interested parties, including customers of the system as provided

herein, the franchise authorization granted to Olde County Water System by Order No. 19,564 will be rescinded reflecting the change in ownership and operation of the utility. The commission hereby

ORDERS, that:

(1) The franchise authority granted, pursuant to RSA 374:22, to Olde County Water System in docket DE 89-027, by Order No. 19,564, dated October 10, 1989, is hereby rescinded and the transfer of the utility to the Town of Derry is hereby granted;

(2) Customers of the system or other interested parties may file comments, objections or request for hearing on this matter on or before April 30, 1993;

(3) Unless the commission orders otherwise, based on comments received, this Order shall take effect on May 10, 1993;

(4) The Town of Derry shall serve a copy of this Order by First- Class, U.S. Mail, postmarked no later than April 16, 1993 on each current and known prospective customer of the subject community water system.

By order of the New Hampshire Public Utilities Commission this ninth day of April, 1993.

=====

NH.PUC*04/12/93*[75048]*78 NH PUC 225*Public Service Company of New Hampshire

[Go to End of 75048]

Re Public Service Company of New Hampshire

DR 93-023
Order No. 20,810
78 NH PUC 225

New Hampshire Public Utilities Commission

April 12, 1993

Fuel and Purchased Power Adjustment Clause Report and Order Addressing Reply Briefs and Procedural Schedule.

Appearances: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Robert P. Knickerbocker, Jr., Esq. (Pro Hac Vice) and Gerald Garfield, Esq. (Pro Hac Vice) of Day, Berry, and Howard for Northeast Utilities Company; Michael W. Holmes, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; Susan W. Chamberlin, Esq. on behalf of the Commission Staff.

BY THE COMMISSION:

I. PROCEDURAL HISTORY

On February 5, 1993, Public Service Company of New Hampshire (PSNH or company) filed a petition with the New Hampshire Public Utilities Commission (Commission) to open a proceeding on its Fuel and Purchased Power Adjustment Clause for effect June 1, 1993 through November 30, 1993 (FPPAC). On February 11, 1993, the Commission issued an Order of Notice scheduling a prehearing conference for March 5, 1993. The Commission rescheduled the prehearing conference for March 11, 1993 due to bad weather.

The Commission staff (staff) and the parties agreed to a procedural schedule except on the issue of reply briefs. There were no motions to intervene. PSNH moved *pro hac vice* for Mr. Robert P. Knickerbocker and Mr. Gerald Garfield to participate in the proceeding.

II. POSITION OF STAFF AND THE PARTIES

A. PSNH

PSNH argued that the company should have an opportunity to respond to arguments brought up for the first time in staff's brief. March 11, 1993 Transcript (Tr.) at 5. Where the company has the burden of proof, this response is a necessary part of meeting that burden. Tr. at 7.

B. The Office of the Consumer Advocate (OCA)

The OCA stated it was not necessary to make a commitment regarding reply briefs this early in the case. It may turn out that reply briefs aren't needed because no unexpected issues arise in the initial briefs. Tr. at 16.

C. Staff

Staff argued that the company has ample opportunity to meet its burden of proof through its prefiled testimony, direct and cross examination and the initial briefs. Tr. at 16-17. The company has the opportunity to respond to mistakes of law or factual findings unsupported by the record in a Motion for Rehearing. Tr. at 17. A reply brief creates an unfair burden on staff's limited resources without improving the commission's ability to make a fair decision on the evidence. Tr. at 18-19.

III. COMMISSION ANALYSIS

The Commission accepts PSNH's motion *pro hac vice* for Mr. Robert P. Knickerbocker and Mr. Gerald Garfield to participate in the proceeding. We will approve the procedural schedule proposed by staff and the parties with certain revisions, without including the submission of reply briefs and setting one date on which briefs by all parties (including staff, the OCA, and the company) are to be filed.

Our revision to the procedural schedule which requires a joint statement of the issues should eliminate to the greatest extent possible the problem of issues arising for the first time in closing briefs. Therefore we find that the following schedule is in the public good:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Friday, February 5, 1993 Public Service files letter
requesting docket to be opened and
procedural hearing date set.

Tuesday, February 16, 1993 Order of Notice issued.

Monday, February 22, 1993 Notice published.

Monday, March 8 Procedural Hearing held.

Monday, March 22, 1993 PSNH files testimony and exhibits.

Tuesday, April 6, 1993 Technical Session with all company witnesses. Receipt of bulk of Data Requests (Orally).

Wednesday, April 7, 1993 Oral Data Requests taken (Noon) on 4/6/93 are typed and telecopied to NHPUC Staff and OCA for verification.

Thursday, April 8, 1993 Remaining Data Requests from Staff and Intervenors, in hand, at Commission's front desk or by fax.

Monday, April 12, 1993 Company notification of problematic data requests.

Tuesday, April 20, 1993 Responses to Staff's and Intervenors' Data Requests filed.

Friday, April 23, 1993 Technical Session/Prehearing Conference with Company witnesses to attend on an as-needed basis. Verbal follow-up data requests.

Friday, April 30, 1993 Company Responses to 4/23 requests filed.

Friday, May 7, 1993 Staff and Intervenor testimony and Joint Statement of Issues filed.

Tuesday through Friday, May 11 - 14, 1993 Hearings on the merits.

Monday, May 17, 1993 Last transcript delivered (next day copies) and any revisions to Joint Statement of Issues.

Monday, May 24, 1993 Briefs filed.

Tuesday, June 1, 1993 Commission Meeting.

Our order will issue accordingly.

Concurring: April 12, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that the procedural schedule set forth in the foregoing Report is adopted for the duration of this matter; and it is

FURTHER ORDERED, that Mr. Robert P. Knickerbocker and Mr. Gerald Garfield are granted leave to appear *pro hac vice*.

By order of the New Hampshire Public Utilities Commission this twelfth day of April, 1993.

=====

NH.PUC*04/12/93*[75049]*78 NH PUC 226*GTE NH

[Go to End of 75049]

Re GTE NH

DR 93-055
Order No. 20,811
78 NH PUC 226

New Hampshire Public Utilities Commission

April 12, 1993

Order Suspending Tariffs for Premium Calling Features.

BY THE COMMISSION:

ORDER

On March 18, 1993 Contel of New Hampshire, Inc. d/b/a GTE New Hampshire (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to modify its existing tariff for Premium Calling Features for effect April 12, 1993; and

WHEREAS, the proposed revisions submitted by the Company require further investigation by Staff; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 7

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Contents and General Subject Index

- Twelfth Revised Sheet
- Eighth Revised Sheet
- Section 6*
- Ninth Revised Sheet 1
- Eighth Revised Sheet 5
- Eighth Revised Sheet 6
- Seventh Revised Sheet 7
- Sixth Revised Sheet 8
- Fifth Revised Sheet 9
- Fourth Revised Sheet 10

be and hereby are suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this twelfth day of April, 1993.

=====

NH.PUC*04/12/93*[75050]*78 NH PUC 227*GTE Maine

[Go to End of 75050]

Re GTE Maine

DR 93-061

Order No. 20,812

78 NH PUC 227

New Hampshire Public Utilities Commission

April 12, 1993

Order Suspending Tariffs for Service Performance Guarantees.

BY THE COMMISSION:

ORDER

On March 24, 1993 Contel of Maine, Inc. d/b/a GTE Maine (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce a Service Performance Guarantee tariff for effect June 1, 1993; and

WHEREAS, the filing provides for a refund of \$25 to residential customers and \$100 to business customers if, in their opinion, GTE Maine has missed either an installation or repair commitment; and

WHEREAS, staff is concerned that such offerings may be represented as mechanisms to create an incentive for the provision of high quality service, yet penalize ratepayers instead of shareholders when the company fails to meet service commitments; and

WHEREAS, staff requires further time to investigate this matter; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 4

Section 6, Eighth Revised Contents

Section 6, Seventh Revised Sheet 8

Section 6, Fourth Revised Sheet 9

be suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this twelfth day of April, 1993.

=====

NH.PUC*04/13/93*[75051]*78 NH PUC 227*GTE New Hampshire

[Go to End of 75051]

Re GTE New Hampshire

DR 93-062

Order No. 20,813

78 NH PUC 227

New Hampshire Public Utilities Commission

April 13, 1993

Order Suspending Tariffs for Service Performance Guarantees.

BY THE COMMISSION:

ORDER

On March 24, 1993 Contel of New Hampshire, Inc. d/b/a GTE New Hampshire (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce a Service Performance Guarantee tariff for effect June 1, 1993; and

WHEREAS, the filing provides for a refund of \$25 to residential customers and \$100 to business customers if, in their opinion, GTE New Hampshire has missed either an installation or repair commitment; and

WHEREAS, staff is concerned that such offerings may be represented as mechanisms to create an incentive for the provision of high quality service, yet penalize ratepayers instead of shareholders when the company fails to meet service commitments; and

WHEREAS, staff requires further time to investigate this matter; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 4

Contents and General Subject Index

Fifth Revised Contents

Section 12

Fifth Revised Contents

Original Sheet 7

Original Sheet 8

Page 227

be suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this thirteenth day of April, 1993.

=====

NH.PUC*04/13/93*[75052]*78 NH PUC 228*Meriden Telephone Company, Inc.

[Go to End of 75052]

Re Meriden Telephone Company, Inc.

DR 93-063
Order No. 20,814
78 NH PUC 228

New Hampshire Public Utilities Commission

April 13, 1993

Order Suspending Tariffs for Local Service Guarantee.

BY THE COMMISSION:

ORDER

On March 29, 1993 Meriden Telephone Company, Inc. (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce a Local Service Guarantee tariff for effect April 30, 1993; and

WHEREAS, the filing provides that a credit equal to the amount of the prior month's local recurring charges be applied to a customer's bill if the company fails to meet certain specified obligations; and

WHEREAS, staff is concerned that such offerings may be represented as mechanisms to create an incentive for the provision of high quality service, yet penalize ratepayers instead of shareholders when the company fails to meet service commitments; and

WHEREAS, staff requires further time to investigate this matter; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 4

Section 2, Original Sheet 2A

Section 2, Original Sheet 2B

be suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this thirteenth day of April, 1993.

=====

NH.PUC*04/13/93*[75053]*78 NH PUC 228*New England Telephone and Telegraph Company

[Go to End of 75053]

Re New England Telephone and Telegraph Company

DE 93-048
Order No. 20,815
78 NH PUC 228

New Hampshire Public Utilities Commission

April 13, 1993

Order Authorizing Administrative Correction to New England Telephones Penacook and Concord Exchange Boundary as Depicted on Exchange Map #21.

BY THE COMMISSION:

ORDER

On April 2, 1993, New England Telephone and Telegraph Company (NET) filed a petition seeking authority to make an administrative correction to its Concord and Penacook Exchange boundary.

WHEREAS, the correction is required to properly reflect NET's exchange boundary between the Concord and Penacook Exchanges; and

WHEREAS, NET proposes to amend its exchange map identified as map number twenty-one (21) to correct an inadvertent error that transpired with the printing of the twelfth revision, dated June 4, 1986; and

WHEREAS, the amendment consists solely of redrawing the exchange boundary to reflect its actual location beginning at the intersection of Abbott and Manor road and traveling Northwest on the center line of Manor road for a distance of approximately 1000 feet as was previously depicted before the twelfth revision; and

WHEREAS, this boundary change is administrative and does not affect customer service or rates; it is hereby

ORDERED, that NET make the administrative boundary correction as described in their April 2, 1993 petition; and

FURTHER ORDERED, that NET file with the Commission its revised Concord/Penacook Exchange Map effective May 2, 1993.

By order of the New Hampshire Public Utilities Commission this thirteenth day of April, 1993.

=====

NH.PUC*04/13/93*[75054]*78 NH PUC 229*New England Telephone Company

[Go to End of 75054]

Re New England Telephone Company

DR 93-013
Order No. 20,816
78 NH PUC 229

New Hampshire Public Utilities Commission

April 13, 1993

Order Authorizing Approval of Amendment to Centrex Special Contract with the City of Manchester.

BY THE COMMISSION:

ORDER

On January 8, 1993, New England Telephone (NET or the company) petitioned for commission approval of an amendment to a special contract to provide the City of Manchester with Digital Centrex Service; and

WHEREAS, the commission on August 21, 1991 issued Order No. 20,221 in Docket DR 90-134 approving a special contract for digital centrex service between NET and the City of Manchester; and

WHEREAS, Puc 1601.05(n) prohibits the amendment of a special contract, and instead requires the Company to file an entirely new contract containing the amended terms; and

WHEREAS, the costs contained in these contracts are based on the New Hampshire Intellipath Digital Centrex Service filing approved by the Commission in Docket DR 86-236, Report and Order No. 18,753, dated July 10, 1987; and

WHEREAS, the commission will reserve judgment on whether the methodology used is the most appropriate method for determining NET's costs of service until, as required in Report and Order No. 20,082, dated March 11, 1991, NET includes an analysis of the incremental costs of Centrex service when filing its updated Incremental Cost Study in 1993 (1993 ICS); and

WHEREAS, the City of Manchester has available competitive substitutes for Centrex service in the form of customer owned private branch exchanges; and

WHEREAS, it is likely that the service that is the subject of this special contract will fall under the heading of an emergingly competitive service which will receive more relaxed regulatory treatment and pricing flexibility; it is hereby

ORDERED *NISI*, that New England Telephone's Special Centrex contract with the City of Manchester be approved; and it is

FURTHER ORDERED, that the rates for this contract be subject to review following the completion of the updated NET Incremental Cost Study to be supplied in 1993; and it is

FURTHER ORDERED, that NET provide an analysis comparing the rates in this contract to the costs identified in the 1993 ICS, citing the location in the 1993 ICS of each component used to determine the incremental cost of Centrex service, no later than 30 days after submission of the 1993 ICS; and it is

FURTHER ORDERED, that the parties are hereby put on notice that the commission will review NET's analysis of the costs identified in the 1993 ICS with the rates in this contract and, if the commission finds that the contract rates are below their incremental costs, NET stockholders will make up the deficiency between the rates charged and the incremental cost, for the period during which rates for this service did not recover their costs; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules PUC 203.01, the company cause an attested copy of this Order *Nisi* to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than April 26, 1993 and documented by affidavit filed with this office on or before May 11, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than May 11, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective thirty days from the date of this order, unless the commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirteenth day of April, 1993.

=====

NH.PUC*04/13/93*[75055]*78 NH PUC 230*New England Telephone Company

[Go to End of 75055]

Re New England Telephone Company

DR 93-070

Order No. 20,817

78 NH PUC 230

New Hampshire Public Utilities Commission

April 13, 1993

Order Authorizing Waiver of Tariff Filing Requirement for Voice Mail Service.

BY THE COMMISSION:

ORDER

New England Telephone and Telegraph Company (NET or the Company) sought approval of

a voice messaging product, an enhanced service, and treatment as a "nonregulated" product; and

WHEREAS, the commission staff has reviewed the proposed service and its accounting treatment; and

WHEREAS, without a structurally separate business to offer non- tariffed services, cross-subsidies from tariffed services to non- tariffed services may result; and

WHEREAS, NET is a monopoly provider of Call Forwarding II, Simplified Message Desk Interface, and Multi-line Hunt Group, which are elements necessary for any enhanced service provider to offer voice mail services; and

WHEREAS, available competitive substitutes for voice messaging exist in the form of customer owned answering machines and alternative answering service providers; it is hereby

ORDERED *NISI*, that New England Telephone's voice mail service be approved; and it is

FURTHER ORDERED, that tariff filing requirements, Puc 403.01(a), for the proposed voice mail service be waived; and it is

FURTHER ORDERED, that tariff filing requirements, Puc 403.01(a), for the proposed voice mail service be waived; and it is

FURTHER ORDERED, that NET provide the commission staff with periodic output reports and analysis; and it is

FURTHER ORDERED, that staff, at its discretion, may audit this enhanced service; and it is

FURTHER ORDERED, that upon finding existence of cross-subsidies of voice mail by regulated services, the waiver of tariff filing requirements will be revoked, and NET stockholders will make up the amount of the cross-subsidization; and it is

FURTHER ORDERED, that NET notify the commission staff at least 3 months in advance of any change in the method of provisioning of voice messaging services from its current plan to use adjunct hardware to use of a central office switch, so that appropriate accounting safeguards may be developed; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, the company cause an attested copy of this Order *Nisi* to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than April 26, 1993 and it is to be documented by affidavit filed with this office on or before May 11, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than May 11, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective thirty days from the date of this order, unless the commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirteenth day of April, 1993.

=====

NH.PUC*04/19/93*[75056]*78 NH PUC 230*Granite State Electric Company

[Go to End of 75056]

Re Granite State Electric Company

DF 92-219
Order No. 20,818
78 NH PUC 230

New Hampshire Public Utilities Commission

April 19, 1993

Order Approving Private Placement Memorandum.

BY THE COMMISSION:

ORDER

WHEREAS, the Commission approved Granite State Electric Company's (Granite State Electric) Petition for Authorization to Issue and Sell One or More Long-Term Notes in the amount of \$10 million through 1994 at an interest rate not to exceed 10 percent; and

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WHEREAS, the approval required Granite State Electric to file a copy of the Private Placement Memorandum for review prior to solicitation of bids for any issuance of the notes; and

WHEREAS, on April 13, 1993, the Company filed its Private Placement Memorandum for the issuance of a \$5 million note with a maturity date of either 2008 or 2013.

WHEREAS, the Commission has reviewed the Memorandum; it is hereby

ORDERED, that the terms and conditions contained in the Private Placement Memorandum are found to be appropriate and in the public good; it is

FURTHER ORDERED, that Granite State Electric may enter into a note agreement with one or more purchasers under terms and conditions which are substantially similar to those contained in the Private Placement Memorandum.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of April, 1993.

=====

NH.PUC*04/19/93*[75057]*78 NH PUC 231*Merrimack County Telephone

[Go to End of 75057]

Re Merrimack County Telephone

DE 93-072
Order No. 20,819
78 NH PUC 231

New Hampshire Public Utilities Commission

April 19, 1993

Order Approving Extension of a Special Contract Between Merrimack County Telephone and the Town of Sutton, New Hampshire For Emergency Call Conferencing System.

BY THE COMMISSION:

ORDER

On April 2, 1993, Merrimack County Telephone (MCT) filed with the New Hampshire Public Utilities Commission (Commission) an extension of its Special Contract No. MCT-004 under which it proposed to continue the provision of Emergency Call Conferencing for the Fire Department of the Town of Sutton, New Hampshire; and

WHEREAS, such conferencing service contract is an extension of Special Contract MCT-004 which was approved by Commission Order No. 18,671, dated May 13, 1987; and

WHEREAS, the original Special Contract MCT-004, approved by Order No. 18,671, was extended by Order No. 20,453 (April 22, 1992) and expires on April 20, 1993; and

WHEREAS, the terms, conditions and rates for such service are the same as those approved by Order Nos. 18,671 and 20,453; and

WHEREAS, the service provided will be used for the provision of communications for the protection of life and property and is therefore in the public good; it is hereby

ORDERED, that the Extension of Special Contract No. MCT-004, between Merrimack County Telephone and the Town of Sutton for effect from April 21, 1993 until April 20, 1994 be, and hereby is approved.

By order of the New Hampshire Public Utilities Commission this nineteenth day of April, 1993.

=====

NH.PUC*04/20/93*[75058]*78 NH PUC 231*New England Telephone & Telegraph Company

[Go to End of 75058]

Re New England Telephone & Telegraph Company

DF 93-066
Order No. 20,820
78 NH PUC 231

New Hampshire Public Utilities Commission

April 20, 1993

Order Authorizing Increase in Shelf Authority.

BY THE COMMISSION:

ORDER

WHEREAS, New England Telephone & Telegraph Company (New England Telephone or the company) filed an application on April 1, 1993 with the Commission requesting the authority to increase its shelf authority to issue debt and to request approval for amortization of the call premiums associated with the refinance issues over the life of the replacement issues; and

WHEREAS, the total amount of debt securities to be issued under this application will not exceed \$500 million; and

WHEREAS, the company has requested this authority be under the terms and conditions specified in NHPUC Order No. 20,630; and

WHEREAS, the proceeds from these debts securities will be applied to refinancing higher coupon debt; and

WHEREAS, the company has requested expeditious approval of the proposal; and

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WHEREAS, Order No. 20,630 referenced New England Telephone's position that over the next few years capital markets might provide financially advantageous opportunities to exercise possible refinancing of existing debenture issues, with newly issued debt securities to be offered at a lower rate of interest; and

WHEREAS, New England Telephone's embedded cost of debt and its overall cost of capital would thus be reduced; and

WHEREAS, this Commission finds that the issue and sale of the debt obligations upon the proposed terms will be consistent with the public good; it is hereby

ORDERED, that the company, be and hereby is, authorized to issue and sell debt securities not to exceed \$500 million and amortize the call premiums associated with the refinanced issues over the life of the replacement issues; and it is

FURTHER ORDERED, that the company forward a report to the Commission on any debt issuances or equity infusions within thirty days of receipt of the proceeds, the notice will provide the type of securities, precise maturity date, purchase price, rate of interest and cost to the

company per annum with the associated premiums and issuance costs; and it is

FURTHER ORDERED, that New England Telephone be and hereby is authorized under RSA 369:1 to borrow up to \$500 million, evidenced by notes or other evidences of indebtedness, and to enter into agreements reflecting such indebtedness; and it is

FURTHER ORDERED, that on or about January first and July first in each year, New England Telephone shall file with this Commission a detailed statement, duly sworn by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of such financing, until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twentieth day of April, 1993.

=====

NH.PUC*04/20/93*[75059]*78 NH PUC 232*New England Telephone

[Go to End of 75059]

Re New England Telephone

DR 93-060

Order No. 20,821

78 NH PUC 232

New Hampshire Public Utilities Commission

April 20, 1993

Order Authorizing Approval of Revisions to NET's Public Access Line and Directory Assistance Tariffs.

BY THE COMMISSION:

ORDER

On March 23, 1993, New England Telephone (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking approval of tariff changes, for effect April 22, 1993, which would exempt Public Access Lines (PAL) from Directory Assistance per call charges above the standard allowance of five calls, and introduce a monthly surcharge of \$0.40 per line; and

WHEREAS, on August 24, 1992 the Commission issued Report and Order No. 20,581 in Docket No. DR 92-213, approving special contracts between NET and five operators of customer owned coin operated telephones (COCOT); and

WHEREAS, NET, in the special contracts approved by Order No. 20,581, agreed to file modifications to its PAL tariff; and

WHEREAS, the Commission staff has investigated this filing including accompanying cost,

usage and revenue documentation; and

WHEREAS, upon review of the petition and the staff recommendation, the Commission finds the proposed offering to be in the public good; it is therefore

ORDERED, that the following tariff pages of New England Telephone are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC -No. 75Part A- Section 5 - Eighth Revision of Page 41
Section 8 - First Revision of Page 7

and it is

FURTHER ORDERED, that the above tariff pages shall be effective as of the date of this order; and it is

FURTHER ORDERED, that the rates for this service be subject to review following the completion of the incremental cost study in April 1993; and it is

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FURTHER ORDERED, that if review of the incremental cost study and subsequent discovery indicate that the rates are below their incremental costs, NET stockholders will make up the deficiency between the rates charged and the incremental costs, for the period during which the rates for this service did not cover their costs; and it is

FURTHER ORDERED, that the above additions to NHPUC No. 75 Tariff be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this twentieth day of April, 1993.

=====

NH.PUC*04/20/93*[75060]*78 NH PUC 233*Coin-operated, Customer-owned Telephone (COCOT) Providers

[Go to End of 75060]

Re Coin-operated, Customer-owned Telephone (COCOT) Providers

Additional respondent: New England Telephone and Telegraph Company

DE 91-213

Order No. 20,822

78 NH PUC 233

New Hampshire Public Utilities Commission

April 20, 1993

Report and Order Addressing NET's Public Access Line Tariff, Directory Assistance Tariff and Proposed Rulemaking.

Appearances: Jill Wurm, representing New England Telephone; Deborah Martone, representing GTE-NH and GTE-ME; Devine, Millimet & Branch by Anu R. Mather, Esq. for Bretton Woods Telephone, Inc., Dunbarton Telephone Company, Granite State Telephone Company, Inc., Merrimack County Telephone Company and Wilton Telephone Company; Karen Doughty, representing Union Telephone Company; George Niden, representing IMR Telecom; Dennis Laurendeau, representing DENCO Electrical Services; Larry Olmsted, representing Apollo Communications, Inc.; Michael Bradford, representing Payphones Plus and Hospitality Communications Group; John Rohrbach, representing the Office of Consumer Advocate; and Eugene F. Sullivan, III, Esq. for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On November 18, 1991, the New Hampshire Public Utilities Commission (Commission) received a letter of complaint from Steven W. Rega, president of Independent Telecommunications Services (ITS), a customer-owned, coin-operated telephone (COCOT) provider in the State of New Hampshire, requesting an investigation of the rate being charged all COCOT providers to provide local calls to their customers under current Commission rules and the corresponding Public Access Line (PAL) tariff (rate schedules) of New England Telephone and Telegraph Company (NET). On December 12, 1991, the Commission issued an Order of Notice scheduling a prehearing conference for January 16, 1992.

NH Admin. Rule Puc PART 408.07 states: "All COCOTs shall access the network by measured business service." The NET Tariff NHPUC No. 75, Part A, Section 8.4.1 - 8.4.3 states in part that:

"PAL service for use with Customer-Owned, Coin Operated Telephone (COCOT) is a class of main telephone exchange service offered to business customers for use by the general public or the combined use of the customer and his patrons."

On January 8, 1992, NET filed a Motion to Intervene, which the Commission granted at its public meeting on January 13, 1992. At the January 16, 1992 prehearing conference, two additional COCOT providers, Apollo Communications, Inc. (Apollo) and DENCO Electrical Service, Inc. (DENCO), and Union Telephone Company (Union), moved to intervene in the proceeding, all of which were granted without objection.

The Commission concluded during the prehearing conference that ITS' complaint was more accurately described as a petition to

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amend N.H. Admin. Rules, Puc PART 408 (Puc PART 408) pursuant to RSA 541-A:6, and notified ITS that its request would require a Commission decision within thirty days. In light of this fact, ITS withdrew its petition for a rulemaking and the Commission opened an investigation into Puc PART 408 to revise the rules addressing the heart of the COCOT provider's concerns,

that is, NET's terms and rates offered to COCOTs under current rules and regulations.

A second prehearing conference was held on February 10, 1992. Dunbarton Telephone Company, Granite State Telephone, Inc., Merrimack County Telephone Company, and Wilton Telephone Company were granted full intervenor status. A technical conference was held on March 13, 1992. Subsequently, Payphones Plus and Hospitality Communications Group were also granted intervention in the case. On May 4, 1992, the Commission adopted the procedural schedule submitted on April 23, 1992. On June 2, 1992, the Commission approved Staff's Motion to Suspend the Procedural Schedule in order to allow the Staff and parties an opportunity to develop rules, more efficiently through technical conferences, to address the issues raised.

Pursuant to the Commission's investigation, the parties and Staff engaged in negotiations to modify Puc PART 408. As part of the negotiations, Staff presented the parties with a modified version of Puc PART 408, which the parties and Staff proceeded to discuss in on-going technical sessions. On June 26, 1992, the parties and Staff submitted a status report to the Commission recommending specific changes to Puc PART 408.

Subsequently, on July 20, 1992, NET filed five Special Contracts, with identical terms and conditions for service with Apollo, DENCO, ITS, IMR Telecom (IMR), and Payphones Plus (Special Contracts) for Commission approval pursuant to RSA 378:18. The Parties requested that the Commission commence a rulemaking addressing the proposed modifications to Puc PART 408. *See* Report of the Parties, June 26, 1992.

The Special Contracts contained the following language regarding compensation to COCOTs:

NET will pay a 20% credit to the [COCOTs] if the combined NET revenue from a [COCOT] payphone in a given month exceeds \$80. "Combined NET Revenue" is defined in the contracts as the (i) amount billed to a [COCOT] by NET for the public access line, touchtone[ServiceMark] and screening features, directory assistance, and local and intraLATA toll usage and (ii) revenues generated by NET intraLATA non-sent paid calls originating at a [COCOT] payphone.

See, Private Payphone Credit Agreements, July 20, 1992 at p.2.

The Special Contracts further addressed the issue of Directory Assistance (DA) charges to COCOT providers. Puc 408.11 states that a COCOT's "[c]harges for directory assistance calls shall match New England Telephone and Telegraph Company's tariffed directory assistance charge for intrastate numbers and AT&T Communications's tariffed directory assistance charge for interstate numbers." Under NET's tariff NHPUC - No. 75, Part A, section 5, page 40-41, each business line is allowed five directly dialed directory assistance calls without charge; each call in addition to the five call limit costs \$.40. A PAL line is a single, measured business line. However from NET's payphones "[a]ll directory assistance calls originated from public or semi-public telephones are also exempt [from DA charges to the end users]". This disparity either causes an end user to incur a per-call charge for a DA call placed from a COCOT but not when the user makes the same DA call placed from a NET payphone, or in the alternative, COCOTs absorb the charge from NET without passing the charge along to end users. Section 7 of the Special Contracts provides as follows:

NET agrees that it shall file for PUC approval a revision to its public access line [PAL]

service, contained in NHPUC - No. 75, which will include a component for intrastate directory assistance (DA) based on average statewide DA usage in

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excess of the call allowance for one-party business services.

On August 24, 1992, the Commission issued Order No. 20,581 approving the Special Contracts between NET and Apollo, Denco, IMR, ITS and Payphones Plus. The Commission also ordered NET to file a tariff of general application containing the same terms as the Special Contracts approved herein within fifteen days of the date of the order or show cause why it should not be required to file such a tariff.

On September 8, 1992, NET filed its Response to Commission Notice to Show Cause Why Tariffs of General Application Should Not Be Filed. On October 2, 1992, the Executive Director and Secretary received a letter from IMR, indicating its position in this regard.

According to the Minutes of the October 12, 1992 Commission meeting:

Commissioner Ellsworth noted that there was an unresolved issue in this docket [DE 91-213]. The issue was brought to the Commission's attention by New England's Telephone Company's request for a flat rate service for certain COCOTS. The Commission approved six [five] Special Contracts in August but noted in one of its Monday meetings that it appeared that the tariff filing would make the flat rate service available not only to those COCOTS who had requested it, but to all COCOTS. The Commission directed the Company to make the filing, or in the alternative, to show cause why it should not be filed. On September 8, 1992 the Company submitted comments to the Commission stating reasons why tariffs should not be filed. Commissioner Ellsworth suggested that all parties deserve an opportunity to be heard in a public hearing and motioned to have staff set the issue for public hearing. Chairman Patch seconded the motion and Commissioner Stevens unanimously concurred.

See, PUC meeting minutes, Oct. 12, 1992, p. 6.

On December 15, 1992, an Order of Notice was issued for a prehearing conference of January 14, 1993. On December 30, 1992, a Revised Order of Notice was issued setting a prehearing conference for January 21, 1993.

At the January 21, 1993, prehearing conference, Contel of Maine, d/b/a GTE-ME and Contel of New Hampshire, d/b/a GTE-NH, (hereafter collectively GTE) and Bretton Woods Telephone, were granted leave to intervene. On February 1, 1993, GTE clarified the parameters of its Limited Motion to Intervene.

II. POSITION OF THE PARTIES AND STAFF

A. NET

On September 8, 1992, NET filed its Response to Commission Notice to Show Cause Why Tariffs of General Application Should Not Be Filed. In its response, NET asserted that a general tariff was not warranted for three reasons: NET was entitled to notice and a hearing on the issue, for public policy reasons NET should not file a general tariff and NET and all COCOTs should

be entitled to a reasonable degree of flexibility. By telephone call on March 16, 1993 to Staff, however, NET indicated that it would file a tariff of general application within forty-five days.

NET also stated, by letter dated March 8, 1993, that it would be shortly filing a DA tariff, which was ultimately filed with the Commission on March 23, 1993. Finally, NET supported the proposed rule changes in the Report of the Parties submitted June 26, 1992.

B. *COCOTS*

On October 2, 1992, the Executive Director and Secretary received a letter from IMR indicating its position in this regard, which reads, in pertinent part:

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The private pay telephone industry in New Hampshire is struggling to maintain itself in an environment which appears to be heading in the right direction, but still is tilted dramatically in favor of the monopoly provider of pay telephone services, New England Telephone.

IMR Telecom has signed a special contract and looks forward to taking advantage of the reductions in the cost of doing business with NET in NH. We do *not* however believe that these changes completely level the competitive playing field or that the fairest way to implement the changes is through a special contract rather than a tariff change.

If New England Telephone will give relief only through a special contract, then we would like to take advantage of it. If, on the other hand, as the Commission decided, and as we believe, that a tariff change is warranted, IMR certainly supports that decision and asks only that plans are in place to implement the changes retroactively to July 1, 1992 (as proposed in the special contracts). [emphasis in original]

The COCOT Special Contracts contain NET's representation that it will file a DA tariff. The COCOTs also rely on NET's representation in the January 21, 1993 transcript that it will shortly file a DA tariff. The COCOTs supported the proposed rule changes in the Report of the Parties.

C. *STAFF*

The Staff asserts that the five special, and yet simultaneously identical, Special Contracts constitute a *de facto* tariff filing. Accordingly, the Staff indicates that for horizontal equity, all COCOTs which satisfy the NET proffered criteria should receive equitable treatment, via a generally available tariff.

Staff's understanding is that NET's criteria must be satisfied each month, for each phone, in order for a COCOT to receive the \$20 credit. That is, the "combined NET revenue" on a particular payphone must exceed \$80 within a monthly billing cycle. Staff's position is that NET ought to offer this credit mechanism, to the five COCOTs for which NET has developed special contracts as well as all other COCOTs which meet NET's criteria. *See*, Transcript, January 21, 1993 at pp. 4, 5 and 15.

Staff moved that the Commission compel NET to offer the credit/discount terms of the Special Contracts to all current and future COCOT providers for at least the duration of the docket. *See*, Transcript, January 21, 1993, at p. 15. Staff also supports the filing of the DA tariff

as well as the proposed rule changes in the Report of the Parties, submitted June 26, 1992.

III. COMMISSION ANALYSIS

In examining the record in this docket, we note a considerable expenditure of resources on a long, slow, series of prehearing conferences and technical sessions, but understand that the docket has developed from an individual customer complaint to a detailed analysis by many telecommunications providers of significant policy issues, including whether a tariff or special contract mechanism is appropriate and ways in which our COCOT rules might be amended.

There are three primary issues, which we will address in turn:

A. *Special Contracts or a General Tariff* In Report and Order No. 20,581, we approved the five Special Contracts, finding that special circumstances within the purview of RSA 378:18 existed, which rendered such departure from the general schedules just and reasonable. We took such action to expedite the ability of the COCOT providers to efficiently and economically operate in New Hampshire. In our approval, however, we indicated our belief that these five Special Contracts could create a barrier to true competition by granting an economic advantage to the five COCOT providers which have received Special Contracts relative to the other thirty-three COCOT providers

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which have not been offered special contracts. Accordingly, we directed NET to file a tariff of general application or show cause why a generally available tariff containing the same terms should not be offered.

In light of NET's March 16, 1993 commitment to file a tariff of general application to all COCOT providers within 45 days of the date of this order, and thereby move towards a level playing field for all payphone providers, this issue is now moot.

B. *Directory Assistance Tariff* Whether NET should file a DA tariff is now moot as well, in that NET, on March 23, 1993, filed a DA tariff in DR 93-060. However, we note with some concern that nine months have elapsed from the date the Special Contracts were filed to the date the DA tariff was filed.

C. *Rulemaking* We have reviewed the proposed changes to N.H. Admin. Rules, Puc PART 408, and find them to be appropriate in all but one respect. In reviewing the record, including the Report of the Parties submitted June 26, 1992, we reject the proposed revision to Puc 408.07(c), which as proposed would set a rate for payphone service in the Administrative Rules. It is inappropriate to address ratemaking in the context of rulemaking. We otherwise support the remaining terms of the proposed rulemaking.

Any provider, interested person, the Staff or the OCA may petition the Commission to open a ratemaking docket to address rates for COCOT providers.

Our order will issue accordingly.

Concurring: April 20, 1993

ORDER

In consideration of the foregoing report, which is made a part hereof, it is hereby

ORDERED, that NET shall file no later than May 3, 1993, a Public Access Line (PAL) tariff of general application, containing the same rates as the five Special Contracts approved in Order No. 20,581; and it is

FURTHER ORDERED, that Staff initiate a rulemaking on the proposed N.H. Admin. Rules, PART Puc 408, attached to the Report of the Parties, as limited by our discussion in the foregoing Report.

By order of the New Hampshire Public Utilities Commission this twentieth day of April, 1993.

=====

NH.PUC*04/22/93*[75061]*78 NH PUC 237*North Country Water Supply, Inc.

[Go to End of 75061]

Re North Country Water Supply, Inc.

DE 92-076

Order No. 20,823

78 NH PUC 237

New Hampshire Public Utilities Commission

April 22, 1993

Order Waiving Proposed Fine and Establishing a Procedural Schedule for Permanent Rates.

BY THE COMMISSION:

ORDER

On March 15, 1993 this Commission issued Order No. 20,791 setting a hearing on April 13, 1993 for North Country Water Supply, Inc. ("North Country" or the "Company") to show cause why it should not be fined \$500 or have its docket dismissed for failure to file its permanent rate request in a timely manner and in compliance with previously approved procedural schedules; and

WHEREAS, said show cause hearing was held on April 13, 1993; and

WHEREAS, said Order required North Country to appear at the hearing with the following items:

1) Filing requirements according to NH Admin. Rules Part PUC 1603.03(b), or requests for waivers therefrom;

2) North Country's request for rate base, including documentation of new plant assets or improvements installed and providing service to customers since acquisition of the system; and

3) The permanent rate North Country is requesting, including any necessary documentation or calculations to illustrate the development of the permanent rate; and

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WHEREAS, North Country appeared at the hearing with a permanent rate filing request which appeared to staff to contain the minimum requirements set forth in Order No. 20,791; and

WHEREAS, the Company has, in its filing, requested waivers from the following filing requirements: Part PUC 1603.03(b) (1), (2), (3), (7), (10), (12), (16), (17), (18), (21), (22), (23) and (24); and

WHEREAS, the Company and staff presented at the hearing a procedural schedule for the completion of the docket as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Data requests of petitioner	April 23
Data responses of petitioner	May 5
Follow up requests of petitioner	May 14
Follow up responses of petitioner	May 26
Staff testimony	June 9
Technical/settlement conference	June 23
Hearing on the merits	July 1;

it is hereby

ORDERED, that the proposed \$500 fine is waived so long as the Company complies with the procedural schedule established herein; and it is

FURTHER ORDERED, that the requests for waivers from the filing requirements as outlined herein are granted; and it is

FURTHER ORDERED, that the procedural schedule outlined herein for completion of this docket is approved.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of April, 1993.

=====

NH.PUC*04/23/93*[75062]*78 NH PUC 238*EnergyNorth Natural Gas, Inc.

[Go to End of 75062]

Re EnergyNorth Natural Gas, Inc.

DR 93-030
Order No. 20,824
78 NH PUC 238

New Hampshire Public Utilities Commission

April 23, 1993

Report Addressing the Setting of Interim Rates and Establishing a Procedural Schedule.

Appearances: McLane, Graf, Raulerson, and Middleton by Jacqueline Lake Killgore, Esquire, on behalf of EnergyNorth Natural Gas, Inc.; LeBoeuf, Lamb, Leiby, and MacRae by Paul Dexter, Esquire, on behalf of Northern Utilities, Inc.; Office of Consumer Advocate by Kenneth E. Traum on behalf of the residential ratepayers of New Hampshire; and E. Barclay Jackson, Esquire, on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. *Procedural History*

On February 19, 1993, pursuant to RSA 378:3, Energy North Natural Gas, Inc. (ENGI) filed with the New Hampshire Public Utilities Commission (Commission) a new tariff page regarding the provision of Natural Gas Vehicle (NGV) Service, with a proposed effective date of April 1, 1993.

On March 15, 1993, the Commission issued Order No. 20,792, which suspended the new NGV tariff page filing by ENGI, stating that "there are numerous policy issues still being formulated and defined regarding NGV service." It scheduled a pre-hearing conference on April 13, 1993 to "address the procedural matters governing the pendency of this proceeding and to determine an interim set of rates." The Commission also specifically directed ENGI to provide Northern Utilities, Inc. (Northern) with a notification of the Commission's order and on April 8, 1993, Northern filed a Motion to Intervene.

II. *Positions of the Parties and Staff*

ENGI requested that the interim rates be set at the proposed permanent rate level and that they apply to all consumption on or after the date of this order. ENGI witness Malcolm R. Ketchum testified that the proposed interim rates are based on ENGI's Large Industrial (LI) customer class and that compression charges are computed separately. Mr. Ketchum agreed with Staff that the proposed interim rates may have to be adjusted to reflect actual costs, when such costs become known.

Neither Staff, the Office of Consumer Advocate (OCA), nor Northern objected to the proposed interim rates; Staff did note that the

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proposed interim rates will need to be reviewed before permanent NGV rates can be adopted.

III. *Commission Analysis*

Noting no objections at the pre-hearing conference, Hearings Examiner Susan W. Chamberlin granted Northern's Motion to Intervene. We affirm this ruling, thereby making Northern Utilities, Inc. a full fledged party to the proceedings.

Based on the recommendations of Hearings Examiner Chamberlin and the established record

of the pre-hearing conference, we will approve the requested interim NGV rates. We will require ENGI to provide a cost based rationale for any permanent rates. We will also approve ENGI's request to charge interim rates on a service rendered basis for consumption on or after the date of this order.

IV. Procedural Schedule

The parties and Staff proposed the following procedural schedule:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

May 4, 1993	Technical Session #1
May 18, 1993	Technical Session #2
June 18, 1993	ENGI files position paper
July 9, 1993	Technical Session #3
July 23, 1993	Technical Session #4
August 20, 1993	Staff and Northern's position papers due
August 31, 1993	Technical Session #5
September 14, 1993	Technical Session #6
September 30, 1993	Joint Recommendations due
October 13 & 14	Hearing date(s)

The parties and Staff further agreed that at a minimum, these position papers will address the following issues:

ENGI and Northern:

1. A general statement giving both companies' perspectives on the viability of NGV service.
2. A preliminary description of the short-run plans and intentions of both companies vis-a-vis NGV service. At a minimum, focus will be placed on the marketing, financial, and operational ramifications of providing NGV service. Care will be taken to clearly specify the underlying assumptions of the short-run analysis.
3. A broad stroke description of the long-run plans and intentions of both companies vis-a-vis NGV service. At a minimum, focus will be placed on the marketing, financial, and operational ramifications of providing NGV service. Care will be taken to clearly specify the underlying assumptions of the long-run analysis.
4. A description of the transition steps to be taken by both companies in going from the short-run to the long-run.

Staff:

1. A general statement giving the Staff's perspective on the viability of NGV service.
2. Identification of the regulatory issues surrounding NGV service.
3. Determination of the appropriate role of the New Hampshire Public Utilities Commission in regulating and facilitating NGV service.

The parties and Staff recognized the need for a comprehensive state policy regarding NGV service. It was also recognized that a number of technical sessions would need to be held to develop this policy. This awareness is reflected in the recommended procedural schedule. It was also the consensus that holding technical sessions would be a much more efficient and effective

way of exchanging information and ideas than using the more traditional data requests and data response approach.

Mr. Kenneth E. Traum of the OCA indicated that an OCA Staff member would be attending the various technical sessions and that the OCA may submit a position paper.

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The parties and Staff also agreed that in the event that any issues are left outstanding and cannot be incorporated into the joint recommendation, individual testimonies will be filed with the Commission. It was further agreed that no data requests and responses would be solicited.

The procedural schedule appears to be in the public interest. Therefore, this agreement is approved and shall govern this proceeding, unless otherwise ordered.

Our order will issue accordingly.

Concurring: April 23, 1993

ORDER

Upon consideration of the foregoing report, which is made a part hereof; it is hereby

ORDERED, that the proposed interim rates for Natural Gas Vehicle (NGV) Service are just and reasonable, and are therefore approved; and it is

FURTHER ORDERED, that the interim NGV rates be applied on a service rendered basis to all consumption on or after the date of this order; and it is

FURTHER ORDERED, that the procedural schedule set forth in the foregoing report is approved.

By order of the New Hampshire Public Utilities Commission this twenty-third day of April, 1993.

=====

NH.PUC*04/27/93*[75063]*78 NH PUC 240*AT&T Communications of New Hampshire Inc.

[Go to End of 75063]

Re AT&T Communications of New Hampshire Inc.

DE 93-064

Order No. 20,825

78 NH PUC 240

New Hampshire Public Utilities Commission

April 27, 1993

Order *Nisi* Approving AT&T Plan Q and Small Businesssm Option.

 BY THE COMMISSION:

ORDER

On March 30, 1993 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to add AT&T Plan Q and Small Businesssm Option to its Custom Network Services and AT&T Long Distance Service. WHEREAS, AT&T proposed the filing become effective April 29, 1993; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than May 25, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than May 10, 1993 and is to be documented by affidavit filed with this office on or before May 25, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages

AT&T Tariff PUC No. 1 - CUSTOM NETWORK SERVICES:

Master Table of Contents: 9th Revised Page 1

Table of Contents: Original Page 18 Section 16: Original Pages 1 though 5

AT&T Tariff PUC No. 4 - AT&T LONG DISTANCE SERVICE

Master Table of Contents: 2nd Revised Page 1

Table of Contents: 1st Revised Page 7

Section 3 - Original Pages 8 through 12

are approved; and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two

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weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of April, 1993.

=====

NH.PUC*04/27/93*[75064]*78 NH PUC 241*AT&T Communications of New Hampshire Inc.

[Go to End of 75064]

Re AT&T Communications of New Hampshire Inc.

DE 93-065

Order No. 20,826

78 NH PUC 241

New Hampshire Public Utilities Commission

April 27, 1993

Order *Nisi* Approving AT&T DIRECTory LINKsm.

BY THE COMMISSION:

ORDER

On April 2, 1993 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce AT&T DIRECTory LINK Servicesm. WHEREAS, AT&T proposed the filing become effective May 3, 1993; and

WHEREAS, AT&T DIRECTory LINK Service is currently in effect as a promotion; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than May 25, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than May 10, 1993 and is to be documented by affidavit filed with this office on or before May 25, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of NHPUC Tariff No. 4 - AT&T

LONG DISTANCE SERVICE are approved:

2nd Revised Title Page

Table of Contents - Original Page 8

Section 4 - Original Page 1

1st Revised Page 2

Original Page 3

and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of April, 1993.

=====

NH.PUC*04/27/93*[75065]*78 NH PUC 242*Keene Gas Corporation

[Go to End of 75065]

Re Keene Gas Corporation

DR 93-037

Order No. 20,827

78 NH PUC 242

New Hampshire Public Utilities Commission

April 27, 1993

Report and Order Approving 1993 Summer Cost of Gas Adjustment.

Appearances: John F. DiBernardo, Assistant General Manager and Harry B. Sheldon, Jr., President for Keene Gas Corporation; Richard B. Deres, PUC Examiner, for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On March 31, 1993, Keene Gas Corporation, (Keene), a public utility engaged in the business of distributing gas within the State of New Hampshire, filed with the New Hampshire

Public Utilities Commission (Commission) certain revisions to its tariff providing for a 1993 Summer Cost of Gas Adjustment (CGA), effective May 1, 1993. The filing requests a CGA rate of \$0.1702 per therm, excluding the state franchise tax, which is an increase from the rate of \$0.0586 per therm approved by the Commission for the 1992 summer period.

A duly noticed public hearing was held at the Commission's office in Concord, N.H. on April 15, 1993.

II. POSITIONS OF KEENE AND THE STAFF

A. Keene Gas Corporation

Mr. John F. DiBernardo, Keene's Assistant General Manager, explained the proposed new CGA tariff and the derivation of the numbers, as well as projections about the forthcoming summer period. In addition, he explained the amounts over- and under- collected in the previous year. He also testified regarding the downward change in the number of services reported on the annual Department of Transportation report. As a result of an updated survey conducted within Keene's service territory, Mr. DiBernardo developed revised numbers for the amount of services still remaining in Keene's system.

Mr. Harry B. Sheldon, Jr., Keene's President, described Keene's product procurement and testified that Keene has not obtained any gas contracts for the forthcoming summer period, believing that because of the futures market this year, it would not be appropriate to enter into firm gas contracts at this time. Keene witnesses further testified regarding the status of a proposed new pipeline expected to pass close to the Keene area and how that may benefit Keene. In addition, Keene witnesses discussed the ways in which Keene is now facing increased competition by other retail energy suppliers in the Keene area.

B. Commission Staff

The Commission Staff (Staff) found Keene's reconciliation of the 1992 period and its projections regarding the 1993 summer period to be reasonable.

III. COMMISSION ANALYSIS

The projected costs, sales, and adjustments to the CGA filing are consistent with those approved by the Commission in past CGA's. The Commission finds that Keene's proposed CGA of \$0.1702 per therm is just and reasonable and, therefore, accepts such as filed.

We understand Keene's reluctance to enter into firm contracts for the summer period, given market conditions. We expect Keene to continue to monitor the market for gas supply and act in the best interests of its customers should market conditions change.

Our order will be issued accordingly.

Concurring: April 27, 1993

ORDER

Upon consideration of the foregoing report, which is made a part hereof; it is hereby ORDERED, that the 14th Revised Page 27, Superseding 13th Revised Page 27 of

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Keene Gas Corporation Tariff, NHPUC No. 1 - Gas, providing for a Cost of Gas Adjustment of \$0.1702 per therm for the period May 1, 1993 through October 31, 1993 be, and hereby is, approved; and it is

FURTHER ORDERED, that the revised tariff page approved by this order become effective with all billings issued on or after May 1, 1993; and it is

FURTHER ORDERED, that public notice of this Cost of Gas Adjustment be given by a one time publication in newspapers having a general circulation in the territories served; and it is

FURTHER ORDERED, the above rate is to be adjusted by a factor of approximately 1% according to the utilities classification in the Franchise Tax Docket DR 83-205, Order No. 16,524.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of April, 1993.

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NH.PUC*04/27/93*[75066]*78 NH PUC 243*Southern New Hampshire Water Company, Inc.

[Go to End of 75066]

Re Southern New Hampshire Water Company, Inc.

DR 89-224

DR 92-005

Order No. 20,828

78 NH PUC 243

New Hampshire Public Utilities Commission

April 27, 1993

Report and Order Continuing Current Methodology for Recovery of Fire Protection Revenues in Litchfield, New Hampshire.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On July 29, 1991, the New Hampshire Public Utilities Commission (Commission) issued Report and Order No. 20,196 which, *inter- fl alia*, allowed Southern New Hampshire Water Company, Inc. (Southern or the Company) to continue to collect fees relative to fire protection in the Town of Litchfield through a customer surcharge until the tenth day following the next Town Meeting at which time the Town would assume its responsibility to pay for the service or be subject to the same disconnection procedures as any other customer. *Re Southern New Hampshire Water Company, Inc.*, 76 NH PUC 521, 535, 541 (1991).

On August 7, 1991, the Town filed a motion for rehearing pursuant to RSA 541:3 relative to the fire protection issue requesting that the commission reconsider its deadline of ten days "following the next town meeting of Litchfield..." because it did not provide an adequate time frame for the creation of fire districts and the submission of the issue to the Town's citizens.

On August 29, 1991, the Commission issued Report and Order No. 20,227 granting the Town's motion to extend the time limit set in Report and Order No. 20,196 relative to the Town's obligation to pay for fire protection to the tenth day following its 1993 town meeting. *Re Southern New Hampshire Water Company, Inc.*, 76 NH PUC 572, 573 (1991).

During the course of the past year the Town Selectmen, the Commission Staff, the Office of the Consumer Advocate and Southern entered into discussions to try to resolve the issue of fire protection in the Town of Litchfield. Those discussions produced an agreement by which the Selectmen would present a warrant article to the citizens of the Town at the next scheduled town meeting. Based on the agreement the warrant article will request the citizen's permission for the Town to enter into an agreement with Southern to assume the responsibility for payments for fire protection at such time as fifty percent (50%) of the property in the Town is served by Southern or ten years from the date of the approval of the agreement by the Commission, whichever occurs first. See letter of April 6, 1993, from the Town to the Commission appended hereto as Attachment A.

However, the agreement was not reached in time for presentment of the issue at this year's town meeting necessitating another continuance before the implementation of the terms for discontinuance of service set forth in Report and Order No. 20,196.

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IV. COMMISSION ANALYSIS

The Commission finds the agreement reached between and among the Town, the Staff, the Office of the Consumer Advocate and Southern to be reasonable. Thus, we will continue this issue until ten days following the Town of Litchfield's 1994 town meeting. Should the warrant article fail to be presented as represented or to be accepted by the citizenry the terms for discontinuance of service set forth in Report and Order No. 20,196 shall become effective on the tenth day following the Town's 1994 town meeting unless otherwise ordered by this Commission. Until such time Southern New Hampshire Water Company, Inc. shall continue to collect the fees for fire protection as a surcharge from its Litchfield customers.

Our order will issue accordingly.

Concurring: April 27, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the request to suspend the implementation of the terms of Report and Order No. 20,196 relative to fire protection in the Town of Litchfield is granted subject to the agreement and conditions set forth in the foregoing Report

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of

April, 1993.

April 6, 1993

Eugene F. Sullivan, III, Esquire State of New Hampshire Public Utilities Commission 8 Old Suncook Road Concord, NH 03301-5185

RE: DR 92-005, Litchfield Fire Protection

Dear Chip:

The Board of Selectmen has met to discuss the issue involving Southern NH Water Company. The Board is willing to put the fire protection issue on the 1994 Town Meeting warrant. With this information in hand, would you please let me know what the Public Utilities Commission is going to do with the pending issue and how that will affect the Town until 1994. I guess we also need to give some thought to the fact that the Town's people could, in fact, decide to vote down the formation of a fire protection district and/or the absorption of a fire protection rate by the municipality. If that is the case, then what would the Commission do under those facts and will that be reflected in any existing or future orders. If you can give me some guidance on those issues, as well, that would be appreciated.

Sincerely yours,

BOSSIE, KELLY & HODES, P.A.

By: Jay L. Hodes

JLH/meg cc: Town of Litchfield

Larry S. Eckhaus, Esquire

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NH.PUC*04/28/93*[75067]*78 NH PUC 245*Northern Utilities, Inc. - New Hampshire Division

[Go to End of 75067]

Ax

Re Northern Utilities, Inc. - New Hampshire Division

DR 93-040
Order No. 20,829
78 NH PUC 245

New Hampshire Public Utilities Commission

April 28, 1993

Summer 1993 Cost of Gas Adjustment.

BY THE COMMISSION:

ORDER

On March 29, 1993, Northern Utilities, Inc., (Northern) filed testimony and exhibits with the New Hampshire Public Utilities Commission (Commission) supporting a request for a rate of \$0.0181 per therm to its Summer 1993 Cost of Gas Adjustment (CGA) effective May 1, 1993. The requested rate was subsequently revised downward to \$0.0128 per therm on April 14, 1993; and

WHEREAS, the Commission held a duly noticed hearing on April 14, 1993 concerning Northern's March 29th CGA filing, as well as certain issues held over from DR 92-060 and DR 92-178, the last two Northern CGA proceedings; and

WHEREAS, the Commission has considered the reasonableness of the current Northern rate request and finds that the record supports, and the public interest is best served, by the approval of the proposed rate for the upcoming Summer CGA period; and

WHEREAS, we have concerns regarding the net benefits to Northern's ratepayers from the ProGas Limited (ProGas) gas supply to Granite State Gas Transmission, Inc. (Granite State), Northern's affiliated interstate natural gas supplier; and

WHEREAS, Northern has not yet supplied the relevant data and analysis to the Commission to allow for a determination of the net benefits to its ratepayers of the ProGas gas supply; and

WHEREAS, the Commission will issue a full report and order on the new issues raised in this case and the issues held over from DR 92-060 and DR 92-178, including our decision on the net benefits and prudence of the ProGas gas supply to Granite State, after review of the record in these dockets; it is hereby

ORDERED, that the Summer 1993 CGA rate of \$0.0128 per therm is hereby approved effective May 1, 1993; and it is

FURTHER ORDERED, that should the monthly reconciliation of known and projected gas costs deviate from the 10 percent trigger mechanism, Northern shall file a revised CGA; and it is

FURTHER ORDERED, that the above rate is to be adjusted by a factor of approximately 1 percent according to the utilities classification in the Franchise Tax Docket DR 83-205, Order No. 16,524; and it is

FURTHER ORDERED, that Northern submit to the Commission all relevant data and analysis necessary to assess the net benefit and prudence of the ProGas gas supply to Granite State by May 31, 1993; and it is

FURTHER ORDERED, that this submission by Northern be made a part of the record of this proceeding; and it is

FURTHER ORDERED, that, if necessary, representatives from Northern meet with members of the Commission staff to discuss the contents of the aforementioned analysis; and it is

FURTHER ORDERED, that Staff will have an opportunity to respond to the new materials submitted by Northern and that this response will be made a part of the record of this docket.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of April, 1993.

=====

NH.PUC*04/28/93*[75068]*78 NH PUC 245*Northern Utilities, Inc. - Salem Division

[Go to End of 75068]

Re Northern Utilities, Inc. - Salem Division

DR 93-041
Order No. 20,830
78 NH PUC 245

New Hampshire Public Utilities Commission

April 28, 1993

Cost of Gas Adjustment Report Addressing Summer 1993 Filing.

Appearances: LeBoeuf, Lamb, Leiby, and MacRae by Scott Mueller, Esquire, on behalf of Northern Utilities, Inc.; and Eugene F. Sullivan, III, Esquire, on behalf of the Staff of the New Hampshire Public Utilities Commission.

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BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On March 29, 1993, Northern Utilities, Inc., (Northern), a public utility engaged in the business of supplying gas in the state of New Hampshire, filed with this Commission Second Revised Page 33, superseding First Revised Page 33, N.H.P.U.C., providing for Summer 1993 Cost of Gas Adjustment (CGA) effective May 1, 1993. The filing was accompanied by the pre-filed direct testimony of Joseph A. Ferro. The proposed CGA is a charge of \$0.1344 per therm, exclusive of the New Hampshire State Franchise Tax.

An Order of Notice was issued setting the date of the hearing for April 14, 1993 at 1:00 p.m. at the Commission's office in Concord, New Hampshire.

The topics covered in the Company's direct testimony included a description of the gas supplies and costs for the Salem Division.

II. *COMMISSION ANALYSIS*

Based upon the Staff review of the filing and the books and records of the Company, the Commission finds that the proposed CGA rate is just and reasonable and in the public interest. We will therefore issue an order approving the rate for effectiveness on May 1, 1993.

Our order will issue accordingly.

ORDER

Upon consideration of the foregoing report which is made a part thereof; it is hereby

ORDERED, that Second Revised Page 33, superseding First Revised Page 33, N.H.P.U.C. tariff of Northern Utilities, Inc. - Salem Division, providing for a Cost of Gas Adjustment (CGA) charge of \$0.1344 per therm for the period May 1, 1993 through October 31, 1993 is hereby approved, said rate to become effective with all billings issued for service rendered on or after May 1, 1993; and it is

FURTHER ORDERED, that the over/under collection will accrue interest at the Prime Rate reported in the *Wall Street Journal*. The rate is to be adjusted each quarter using the rate reported on the first day of the month preceding the first month of the quarter; and it is

FURTHER ORDERED, that the above rate is to be adjusted by a factor of approximately 1 percent according to the utilities classification in the Franchise Tax Docket DR 83-205, Order No., 16,524; and it is

FURTHER ORDERED, that should the monthly reconciliation of known and projected gas costs deviate from the 10 percent trigger mechanism, Northern shall file a revised Cost of Gas Adjustment.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of April, 1993.

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NH.PUC*04/29/93*[75069]*78 NH PUC 246*Claremont Gas Corporation

[Go to End of 75069]

Re Claremont Gas Corporation

DR 93-038

Order No. 20,831

78 NH PUC 246

New Hampshire Public Utilities Commission

April 29, 1993

Report and Order Approving 1993 Summer Cost of Gas Adjustment.

Appearances: Dom S. D'Ambruso, Esquire of Ransmeier and Spellman on behalf of Claremont Gas Company; Stuart Hodgdon on behalf of the Staff of the Public Utilities Commission.

BY THE COMMISSION:

REPORT

PROCEDURAL HISTORY

On April 1, 1993, Claremont Gas Corporation (Claremont), a public utility engaged in the business of supplying gas in the State of New Hampshire, filed with the New Hampshire Public Utilities Commission (Commission) 139th Revised, Page 12-2 Tariff, N.H.P.U.C. No. 9 - Gas (Exhibit #1). This tariff was withdrawn prior to the cost of gas adjustment (CGA) hearing.

On April 14, 1993, Claremont filed with this Commission 140th Revised, Page 12-2 Tariff, N.H.P.U.C. No.9 - Gas (Exhibit #2).

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This tariff was also withdrawn prior to the CGA hearing.

On April 15, 1992, Claremont filed with this Commission 141st Revised, Page 12-2 Tariff, N.H.P.U.C. No. 9 - Gas (Exhibit #3). This tariff provided for a 1993 Summer CGA for effect May 1, 1993 of \$0.0335 per therm, before adjustment for the state franchise tax. This is an increase of \$0.1789 over the current effective rate of (\$0.1454) per therm, before adjustment for the franchise tax.

An Order of Notice was issued setting a hearing for April 15, 1993. It was further ordered that a copy of the Order of Notice be published in a local newspaper.

II. POSITIONS OF CLAREMONT AND STAFF

The hearing addressed the following issues: a) competitive bids; b) gas purchasing/futures contract; c) marketing; d) lost and unaccounted for gas; e) confirmation of audit report findings.

A. *COMPETITIVE BIDS*

Claremont testified that its parent corporation Synergy Gas Corporation sent its suppliers letters of solicitation seeking bids for propane. Four suppliers refused to bid, as indicated by letters filed with the Commission (Exhibit #4).

B. *GAS PURCHASING/FUTURES CONTRACT*

A condition of the 1992 winter CGA authorization was that Synergy respond to a series of questions to be posed by Staff Analyst Robert Egan regarding Synergy's gas purchasing. *See*, Order No. 20,648 (October 27, 1992). The written questions and responses by Synergy were introduced as Exhibit #5.

As indicated in Exhibit #5, Synergy has purchased most of its propane for Claremont at spot market pricing at Selkirk, New York. However for this CGA, Synergy has offered Claremont a futures contract purchased on April 1, 1993. Claremont's Customer Relations Manager, Joseph Broomell, testified that Synergy purchased this through a broker for delivery in the month of April at Mont Belvieu, Texas. Additional costs of pipeline freight, transportation, storage and cost of money were then added. The unit cost was then reduced by a rebate which Texas Eastern Transmission applies to customers in this region.

As this is a new method of purchasing, Staff expressed a need to review the spot market pricing and compare it to the futures contract for the summer CGA period. Staff also expressed concern as to whether the additional costs for pipeline freight and storage on propane delivered to Claremont's retail tank were inadvertently being passed onto utility ratepayers instead of being

absorbed by retail customers.

C. MARKETING

Claremont has committed to a detailed survey of current and potential customers along the pipeline system, to be completed in May 1993. In addition Claremont testified that it was currently marketing a Great Water Heater Swap Out Program. The program is designed to increase each customer's use of gas by exchanging electric water heaters for gas water heaters. Claremont has offered its employees special bonuses while selling these and other appliances. Claremont has agreed to file a copy of the survey and report on the outcome of the marketing program no later than June 30, 1993.

D. LOST AND UNACCOUNTED FOR GAS

During the third quarter of 1992 the Company had its annual leak survey performed. There were no class one leaks. On March 16, 1993 Claremont filed with the PUC the Annual Report for Gas Distribution System for calendar year 1992 which shows an unaccounted for gas figure of 22%. This is an increase of 7% over the reported 1991 loss. Mr. Broomell stated that he would look into the reasons for this 1992 high loss figure with Claremont's manager, John Dorsch. The Commission's Finance Department will review the reports to determine why the amount of unaccounted for gas is so high.

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E. AUDIT REPORT FINDINGS

Mr. Broomell stated that he has signed a letter of confirmation regarding the findings reported by the PUC Audit Staff concerning test year 1991. Staff received this letter April 21, 1993.

III. COMMISSION ANALYSIS

A number of issues remain to be resolved, as a result of the CGA hearing. We are concerned about the proposed futures contract for supply of propane, particularly as to who is responsible for payment of additional costs of pipeline freight and storage for propane delivered to the retail tank at Claremont. We instruct Mr. Broomell to file a written response to this issue within 10 working days of the effective date of this order.

Similarly, we are troubled by the very high amount of unaccounted for gas and await further report of the Commission Staff and Claremont regarding their review of Claremont's unaccounted for gas. We also await the survey results regarding potential customers, the results of the Water Heater Swap Out and the confirmation of Staff Audit findings.

Based on Claremont's projected gas costs, however, we find Claremont's revised filing (Exhibit #3) CGA showing a rate of \$0.0335 for the summer of 1993 period, before adjustment for the franchise tax, to be reasonable.

Our order will issue accordingly.

Concurring: April 29, 1993

ORDER

Upon consideration of the foregoing report, which is made a part hereof; it is hereby

ORDERED, that Claremont Gas Corporation (Claremont) 141st Revision, Page 12-2, NHPUC No. 9e - Gas, issued April 15, 1993 for effect May 1, 1993 through October 31, 1993 providing for a Summer Cost of Gas Adjustment of \$0.0335 per therm, before adjustment for the franchise tax, be and hereby is approved; and it is

FURTHER ORDERED, that the revised tariff page approved by this order become effective with all billings issued on or after May 1, 1993; and it is

FURTHER ORDERED, that Claremont respond in writing regarding additional pipeline costs on propane delivered to Claremont's retail tank within 10 working days of the effective date of this order; and it is

FURTHER ORDERED, that Claremont file a copy of the survey of current and potential customers along the pipeline system no later than June 30, 1993; and it is

FURTHER ORDERED, that Claremont file a report on the outcome of its marketing program which will be done in May.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of April, 1993.

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NH.PUC*05/03/93*[75070]*78 NH PUC 248*Public Service Company of New Hampshire

[Go to End of 75070]

Re Public Service Company of New Hampshire

DR 92-050

DR 92-165

Order No. 20,832

78 NH PUC 248

New Hampshire Public Utilities Commission

May 3, 1993

Fuel and Purchased Power Adjustment Clause (FPPAC) - Report Denying Motion for Rehearing.

Appearances: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Robert P. Knickerbocker, Jr., Esq. (Pro Hac Vice) and Gerald Garfield, Esq. (Pro Hac Vice) of Day, Berry, and Howard for Northeast Utilities Service Company; Michael W. Holmes, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; Susan Chamberlin, Esq. and James T. Rodier, Esq. on behalf of the Commission Staff.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On April 1, 1992, in Docket No. DR 92-050, Public Service Company of New Hampshire (PSNH or company) filed with the New Hampshire Public Utilities Commission

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(Commission) its proposal for a Fuel and Purchased Power Adjustment Clause (FPPAC) rate of 0.00 cents per kilowatt-hour for the period from June 1, 1992, through November 30, 1992. The Commission held hearings on May 6 through May 8, 1992.

On September 25, 1992, in Docket No. DR 92-165, PSNH filed its proposed FPPAC rate of 0.274 cents per kilowatt-hour for the period from December 1, 1992, through May 31, 1993. PSNH also filed data for the Reconciliation Period from June 1, 1992, to October 31, 1992.

The Commission consolidated supplemental hearings in Docket No. DR 92-050 and hearings in Docket No. DR 92-165 and held the hearings on the merits on November 9, 10 and 12, 1992.

At the close of the consolidated hearings, PSNH, Commission Staff (Staff) and the Office of the Consumer Advocate (OCA) engaged in settlement discussions. On November 25, 1992 as a result of the discussions, Staff and the parties filed Joint Recommendations for separate Commission Orders in DR 92-050 and DR 92-165.

In DR 92-050, Staff and the parties agreed to brief the energy efficiency issue, and to narrow the areas of disagreement relating to the Northeast Utilities/ Public Service Company of New Hampshire (NU/PSNH) swap transactions and Seabrook Station outages. Staff and the parties submitted initial briefs on the energy efficiency issue on December 15, 1992 and reply briefs on December 22, 1992.

In DR 92-165, Staff and the parties agreed that certain issues were no longer contested because the parties agreed in the Joint Recommendations to resolve those issues; that certain issues could be deferred to a later proceeding; and that PSNH would submit a statement of position regarding the Commission's jurisdictional authority to disallow recovery of PSNH's replacement power costs for Seabrook outages due to imprudence. The Commission approved a temporary FPPAC rate of 0.274 cents per kilowatt-hour. Report and Order No. 20,691 (December 1, 1992).

On March 23, 1993 the Commission issued Report and Order No. 20,794 making the temporary FPPAC rate of .274 cents per kilowatt- hour permanent; accepting the Joint Recommendations in dockets DR 92-050 and DR 92-165; and resolving the outstanding issue on implementation of energy efficiency projects with paybacks of up to five years. *Public Service Company of New Hampshire*, DR 92- 050 and DR 92-165, Report and Order No. 20,794, (March 23, 1993) (Order No. 20,794).

On April 12, 1993 PSNH filed "Exceptions and Reservations of Rights" with respect to Order No. 20,794, concerning the energy efficiency projects. On April 15, 1993, Staff filed an "Objection to Petitioner's Motion for Rehearing."

II. *POSITIONS OF STAFF AND THE PARTIES*

A. PSNH

PSNH seeks to reserve its rights as to findings in the Commission's Order No. 20,794 instead of moving for rehearing as there is no immediate financial harm to PSNH. Exceptions and Reservations of Rights, *Public Service Company of New Hampshire*, DR 92-050 and DR 92-165 (April 12, 1993) (Exceptions), at 1.

PSNH believes its position in Order No. 20,794 was mischaracterized. Exceptions at 1-3. PSNH also states that the evidence on which the Commission relied to determine that good utility practice includes implementing energy efficiency projects with paybacks up to five years was insufficient. Exceptions at 4.

Concerning PSNH's ability to recover the costs of any such projects from ratepayers, PSNH believes that these costs are recoverable under the Rate Agreement. Exceptions at 5. PSNH had not performed such projects in the past and therefore such projects cannot be considered part of NU's promise to restore "business as usual." *Id.*

PSNH states that if the Commission rules that PSNH may not reserve its rights regarding the findings of the Commission's Order No. 20,794 then the Exceptions shall be considered as a Motion for Rehearing under RSA 541:3. Exceptions at 7. PSNH also requests that Order No. 20,794 be applied prospectively. Exceptions at 8.

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B. Staff

Staff objects to the use of "Exceptions and Reservations of Rights" as it is not a procedural option under the Commission rules. Objection to Petitioner's Motion for Rehearing, *Public Service Company of New Hampshire*, DR 92-050 and DR 92-165 (April 15, 1993) (Objection), at 1. Staff requests the Commission characterize the filing as a Motion for Rehearing and deny the motion as it does not raise any new reasons or evidence for rehearing. Objection at 4.

The Commission's Order No. 20,794 is based on sufficient evidence that good utility practice includes energy efficiency projects with paybacks up to five years. Objection at 3. PSNH may not recover the costs of implementing such an energy efficiency project through the exceptions to the Rate Agreement. *Id.* The merits of implementing energy efficiency projects with paybacks up to five years were litigated and decided based on the sufficient evidentiary record before the Commission, the Motion for Rehearing, therefore, should be denied. *Id.* In addition, Staff argues that the Commission need not rule on the prospective application of its order as there is no active controversy as to its application before it. Objection at 4.

III. COMMISSION ANALYSIS

We will characterize PSNH's April 12, 1993 "Exceptions and Reservation of Rights" filing as a Motion for Rehearing. It is inappropriate to reserve rights to challenge issues that have been fully litigated. Once the Commission issues a final order it is final, subject only to rights of appeal pursuant to RSA 541. This is distinct from an agreement to defer certain issues for litigation. In that circumstance, argument is deferred and a final order on the merits is not issued. Staff and the parties may gather more information, further develop the issue on the record, or

wait for the controversy to become ripe. Here, the energy efficiency project issue was segregated for litigation, argued in closing briefs and we entered a final decision deciding the controversy. PSNH may not reserve any rights to relitigate these very same issues at some future time. The company must accept our decision as final or exercise its right to appeal.

We accept PSNH's argument that "[e]ven if PSNH does not prevail in its arguments in this proceeding, it at least has the right to have its arguments fairly summarized..." Exceptions at 3. If PSNH wishes to submit a revised summary of the company's position to be included under "Positions of Staff and the Parties" in Order No. 20,794 we will consider such a revision. However, where the Commission interpreted the facts in a manner that is different from PSNH's interpretation, we do not consider that a mischaracterization of the company's position. In our decision making capacity it is necessary to choose between opposing positions and interpretations which is what we have done in Order No. 20,794.

Having characterized the company's filing as a Motion for Rehearing we will now rule on its merits. The Commission may grant a motion for rehearing if it is of the opinion that rehearing is requested for "good reason." RSA 541:3; NH Admin. Rules Puc 203.14.

PSNH argues that there is insufficient evidence supporting the Commission's findings. Exceptions at 4. We disagree. At the May 12, 1992 hearing, Staff presented a three witness panel of experts - Mr. Michael D. Cannata, Chief Engineer, Mr. Arthur C. Johnson, Assistant Chief Engineer, and Mr. Thomas Frantz, Electric Utility Analyst, to testify on energy efficient projects. Transcript 5/12/92 (Tr.) at 64-84. Their testimony repeatedly supports the implementation of projects with up to a five-year payback. *Id.* at 70-71, 78-79, 82-84.

We also disagree with PSNH's assertion that Order No. 20,794 ignores PSNH's arguments on recoverability. Exceptions at 5. As noted by Staff in its Objection, we disagreed with PSNH's arguments, we did not ignore them. We interpreted the Rate Agreement to preclude recovery of these energy efficiency projects outside of the 5.5% base rate increases. Order No. 20,794 at 24-25. Once again we note that we have not ordered PSNH to undertake every program with up to five year paybacks. Our conclusion is that a pro-

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gram with such a payback cannot be excluded from consideration as a prudent means of operating a utility. Order No. 20,794 at 21.

PSNH's final concern is that Order No. 20,794 not be applied retroactively. Exceptions at 8. Until we have a request for such an application before us, we will not issue a ruling on it.

Therefore we deny PSNH's request for Exceptions and Reservation of Rights, find that PSNH's April 12, 1993 filing is a Motion for Rehearing and deny the Motion for Rehearing based on the preceding analysis.

Our order will issue accordingly.

Concurring: May 3, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that Public Service Company of New Hampshire's request for Exceptions and Reservations of Rights is denied; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire's Motion for Rehearing is denied.

By order of the Public Utilities Commission of New Hampshire this third day of May, 1993.

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NH.PUC*05/04/93*[75071]*78 NH PUC 251*EnergyNorth Natural Gas, Inc.

[Go to End of 75071]

Re EnergyNorth Natural Gas, Inc.

DR 91-212
Order No. 20,833
78 NH PUC 251

New Hampshire Public Utilities Commission
May 4, 1993

Order Addressing Refunds.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, by Order No. 20,776 dated March 1, 1993, as amended by Order No. 20,793 dated March 23, 1993, the Public Utilities Commission of New Hampshire ordered EnergyNorth Natural Gas, Inc. (ENI) to refund the difference between the permanent rates allowed by the Commission and rates put into effect under bond as of November 1, 1992; and

WHEREAS, ENI on April 26, 1993, through its treasurer, submitted data relative to approximately 550 former customers who are owed refunds in the amount between \$0.00 and \$2.00 for a total refund due for these customers of approximately \$750.00; and

WHEREAS, ENI states that these customers are completely off system and checks would have to be written to the customers, if they could be found; and

WHEREAS, ENI further states that the cost to issue these checks would be approximately \$.50 per check; and

WHEREAS, ENI is a participant in the Neighbor Helping Neighbor Fund; it is hereby

ORDERED, that ENI donate the amount of refunds which have not been paid out in the amount of approximately \$750.00 to the Neighbor Helping Neighbor Fund within six months of this order; and it is

FURTHER ORDERED, that any customer requesting a refund in the amount less than \$2.00 will receive a refund in United States postage stamps rather than by check; and it is

FURTHER ORDERED, that said customers shall have no rights to refund amounts unclaimed after six months; and it is

FURTHER ORDERED, that ENI make an accounting of the refund amount donated to the Neighbor Helping Neighbor Fund.

By order of the Public Utilities Commission of New Hampshire this fourth day of May, 1993.

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NH.PUC*05/04/93*[75072]*78 NH PUC 251*Generic Investigation into Natural Gas Transportation Service and Rates

[Go to End of 75072]

Re Generic Investigation into Natural Gas Transportation Service and Rates

DE 91-149

Order No. 20,834

78 NH PUC 251

New Hampshire Public Utilities Commission

May 4, 1993

Report and Order Denying Second Motion of Northern Utilities, Inc. to Designate Staff Advocates.

Appearances: Ransmeier & Spellman by Dom S. D'Ambruoso, Esq. and John T. Alexander, Esq. for Anheuser-Busch

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Companies, Inc.; McLane, Graf, Raulerson and Middleton by Jacqueline L. Killgore, Esq. for EnergyNorth Natural Gas, Inc.; LeBoeuf, Lamb, Leiby & MacRae by Paul Connolly, Esq. and Meabh Purcell, Esq. for Northern Utilities, Inc.; Devine, Millimet and Branch by Frederick J. Coolbroth, Esq. and Anu S. Mather, Esq. for Sprague Energy Corp.; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Business and Industry Association by Kenneth A. Colburn; James Anderson, Esq. of Office of Consumer Advocate for residential ratepayers; Amy Ignatius, Esq. for the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission) issued an Order of Notice on November 20, 1991, pursuant to a petition by Anheuser-Busch Companies, Inc. (Anheuser-Busch) for the purpose of commencing a generic investigation into natural gas transportation service and rates. The Commission granted intervention to the Business and Industry Association (BIA), Northern Utilities, Inc. (Northern), EnergyNorth Natural Gas, Inc. (ENGI), Public Service Company of New Hampshire and Northeast Utilities Service Company (collectively PSNH) and Sprague Energy Corp. (Sprague).

On December 1, 1992, ENGI and Northern jointly filed a Motion to Designate Staff, which the Commission denied in Report and Order No. 20,700 (December 15, 1992). A January 4, 1993 joint Motion for Rehearing was denied in Report and Order No. 20,734 (January 25, 1993). That denial was appealed to the New Hampshire Supreme Court by Northern, where it is now pending.

On April 9, 1993, Northern reasserted a request for designation of certain staff. The request was made formally in writing on April 15, 1993 (Second Motion) to which Anheuser-Busch, Sprague and Commission Staff objected on April 19, 1993. The Commission orally denied the Second Motion on April 21, 1993 during a hearing on the merits in this docket.

II. POSITIONS OF THE PARTIES AND STAFF

A. *Northern Utilities, Inc.*

Northern, in its Second Motion to Designate Staff alleges violations of RSA 363:12-c and 541-A:21. It asks that Mr. McCluskey and "any staff person who has engaged in any such ex parte communications in this case, or who has had discussions with a staff member regarding the substance of such ex parte communications" be designated Staff Advocates for the duration of the proceeding. It does not assert that the integrity of the Commissioners as decision makers is in question or that Mr. McCluskey is unable to fairly evaluate or advise the Commission regarding issues raised in the case, but that the process will be "tainted" if designation is not ordered.

B. *EnergyNorth Natural Gas, Inc.*

ENGI, though a party, took no position on the Second Motion to Designate.

C. *Anheuser-Busch*

Anheuser-Busch objected to the Second Motion to Designate, arguing that there is no "new evidence" to justify a different finding by the Commission and that because this is not a contested case, the prohibitions against *ex parte* communications in RSA 541-A:21 and 363:12-c do not apply.

C. *Sprague*

Sprague objected to the Motion to Designate, also asserting that Northern has misconstrued the meaning and intent of the prohibitions against *ex parte* communications in RSA 541-A:21. It argues that the information shared between Mr. McCluskey and various parties is not the type of "non-record" evidence for which the statute was created. Further, Sprague argues that RSA 363:12-c does not apply in that this instance and that there is no need for designation under N.H. Admin. Rules, Puc 203.15.

D. Public Service Co. of New Hampshire

PSNH, though a party, took no position on the Second Motion to Designate.

E. Business and Industry Association

BIA, though a party, took no position on the Second Motion to Designate.

F. Office of Consumer Advocate

OCA, though a party, took no position on the Second Motion to Designate.

G. Commission Staff

Staff objected to the Second Motion to Designate, arguing that the prohibitions against *ex parte* communications do not apply. Further, there has been no showing of any lack of impartiality by the Commissioners or the inability of Mr. McCluskey to evaluate the evidence fairly.

III. COMMISSION ANALYSIS

We have reviewed Northern's Second Motion to Designate Staff Advocates and Objections filed by Anheuser-Busch, Sprague and the Staff. We do not find Northern's arguments persuasive and as stated at the hearing on April 21, 1993, will deny the Motion.

As we stated in Order No. 20,734, we do not believe this is a "contested" case under the meaning of the Administrative Procedures Act, RSA 541-A:16. Because this is not a contested case, discussions between staff members and some of the parties to this case are not *ex parte* communications.

We agree with the analysis of Sprague, Anheuser-Busch and the Staff that the provisions of RSA 363:12-c do not apply in this matter. Because we do not find the prohibitions of RSA 541-A:21 to be applicable, we similarly cannot conclude that the prohibitions of 363:12-c (which merely refer to *ex parte* communications without definition) apply here.

As the Supreme Court found in *Appeal of Atlantic Connections, Ltd.*, 135 N.H. 510 (1992), the communication of concern is information shared with the decision maker which is never made part of the record and subject to cross examination. There is nothing in the Second Motion to suggest there is such off the record evidence present in this case, or even an allegation that Mr. McCluskey or any other staff member might share such evidence with the Commission.

We must note, as we did in Order No. 20,700, that the ultimate question regarding impartiality must focus on the impartiality of the Commissioners as decision makers. *Appeal of the Office of Consumer Advocate*, 134 N.H. 651, 660 (1991). There has been no allegation that we as Commissioners have been anything less than fair and impartial, or that we are unable to continue to operate in an impartial manner through the deliberations in this proceeding, now that the evidentiary phase is complete. We reject the suggestion that allowing Mr. McCluskey to act as an advisor to the Commission will "irreparably taint" the impartiality of the Commission. We deny, therefore, the Motion to Designate Staff Advocates.

Our order will issue accordingly.

Concurring: May 4, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that the Motion to Designate Staff Advocates filed by Northern Utilities, Inc. is hereby denied.

By order of the Public Utilities Commission of New Hampshire this fourth day of May, 1993.

=====

NH.PUC*05/10/93*[75073]*78 NH PUC 254*New England Power Company

[Go to End of 75073]

Re New England Power Company

DF 93-076

Order No. 20,835

78 NH PUC 254

New Hampshire Public Utilities Commission

May 10, 1993

Order Granting Issuance of General and Refunding Mortgage Bonds, First Mortgage Bonds, and to Execute Loan Agreements Regarding Refinancing of Pollution Control Bonds.

BY THE COMMISSION:

ORDER

WHEREAS, on April 26, 1993, New England Power Company (NEP or Company) filed a petition for authorization to issue not exceeding \$100 million of principle amount of General and Refunding Mortgage Bonds (Additional G&R Bonds), First Mortgage Bonds, and to execute loan agreements regarding the refinancing of pollution control bonds through December 31, 1994; and

WHEREAS, the Company has remaining authority from the Commission for the issuance of \$12 million of Additional G&R Bonds in connection with refinancing of pollution control revenue bonds (PCRBs); and

WHEREAS, current conditions in the capital markets present an opportunity for the Company to refinance up to \$112 million of PCRBs issued on the Company's behalf at significantly reduced interest costs; and

WHEREAS, the Company proposes that the proceeds from the issue of PCRBs will be used, together with other funds available to the Company, to retire \$112 million face amount of high

coupon PCRBs previously issued on the Company's behalf; and

WHEREAS, in order to refinance the G&R Bonds previously issued to support PCRBs, the Company proposes to execute one or more loan agreements or supplemental loan agreements with Massachusetts Industrial Finance Agency (MIFA), Salem Massachusetts Industrial Financing Authority (Salem) or the New Hampshire Business Finance Authority (BFA, formerly the Industrial Development Authority of the State of New Hampshire) each of which is a public agency (hereinafter individually referred generically as an Issuing Authority) empowered to issue PCRBs; and

WHEREAS, the Company would, contemporaneously with the issuance of these PCRBs issue corresponding amounts of Additional G&R Bonds to the Issuing Authority to evidence the Company's obligations for payment of the principle of and premium, if any, and interest on such PCRBs; and

WHEREAS, the PCRBs would be sold by the issuing authority through (1) competitive bidding, (2) negotiation with underwriters, or (3) negotiation directly with investors and would mature in not more than 30 years; and

WHEREAS, the Company will not be a party to the agreements in connection with the sale of such issues but the agreements will provide that the terms of the PCRBs and their sale shall be satisfactory to the Company; and

WHEREAS, the Company mortgages under the G&R Indenture, subject to the lien of the Company's Indenture of Trust and First Mortgage dated as of November 15, 1936, and supplements thereto (the First Mortgage Indenture), all of the Company's property, assets, and franchises except property of the character specifically reserved to the Company in the G&R Indenture; and

WHEREAS, the Company proposes to execute one or more indentures as security for all bonds issued or to be issued under and pursuant to the terms of the G&R Indenture; and

WHEREAS, the Additional G&R Bonds will be issued under and pursuant to the terms of the Company's General and Refunding Mortgage Indenture and Deed of Trust dated as of January 1, 1977, as amended and supplemented (the G&R Indenture), securing its presently outstanding G&R Bonds; and

WHEREAS, the timing of the issuance of the Additional G&R Bonds is dependent, in part, upon market conditions and that in order for the company to take advantage of rapidly changing market conditions the Company requests that it be authorized to issue the Additional G&R Bonds from time to time through December 31, 1994; and

WHEREAS, the Company estimates that, on an annual basis, net interest cost would be reduced by approximately \$4.5 million; and

WHEREAS, the Commission finds that it would be for the public good for the Company

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to issue General and Refunding Mortgage Bonds (Additional G&R Bonds); it is hereby ORDERED, *NISI*, that New England Power Company be and hereby is, granted

authorization to issue General and Refunding Mortgage Bonds, First Mortgage Bonds, and to execute loan agreements regarding the refinancing of pollution control bonds through December 31, 1994; and it is

FURTHER ORDERED, that NEP shall file detailed documentation regarding the loan agreements at the time that they are executed; and it is

FURTHER ORDERED, that the Company shall, on January 1st and July 1st of each year, file with this Commission a detailed statement duly sworn to by its Treasurer, showing the disposition of the proceeds of the Additional G&R Bonds; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or a written request to the Commission for a hearing not later than June 4, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, New England Power Company shall cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than May 20, 1993 and is to be documented by affidavit filed with this office on or before June 7, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective on June 9, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this tenth day of May, 1993.

=====

NH.PUC*05/10/93*[75074]*78 NH PUC 255*Atlantic Connections, Ltd.

[Go to End of 75074]

Re Atlantic Connections, Ltd.

DE 92-104

Order No. 20,836

78 NH PUC 255

New Hampshire Public Utilities Commission

May 10, 1993

Order Granting Protective Treatment of Confidential Financial Documents.

BY THE COMMISSION:

ORDER

On July 20, 1992, Atlantic Connections, Ltd. (Atlantic) was granted authority by this Commission to conduct business as a telecommunications "reseller" in the State of New Hampshire; and

WHEREAS, on April 2, 1993, the Finance Department of the Commission requested certain financial information from Atlantic to assess its financial viability and any possibility of predatory pricing which might hinder the entrance of potential telecommunications competitors in the New Hampshire marketplace, as is the Commission's practice with all "resellers"; and

WHEREAS, on May 6, 1993, Atlantic requested protected treatment of its "[b]illed revenues', '# of [c]ustomers' and 'PIU'"; and

WHEREAS, the Commission finds, in the first instance, that said information is entitled to protective treatment pursuant to RSA 91- A:5, IV; it is hereby

ORDERED, that Atlantic is granted protective treatment, i.e., exemption from the disclosure provisions of RSA chapter 91-A, for all documents filed pursuant to the Commission's request containing information relative to its billed revenues, number of customers and PIU; and it is

FURTHER ORDERED, that any member of the public seeking disclosure of this material pursuant to RSA chapter 91-A must do so in writing with a copy to Atlantic, at which time the Commission will schedule a hearing to assess the continued applicability of this order; and it is

FURTHER ORDERED, that Atlantic will bear the burden of maintaining the continuing applicability of RSA 91-A:4 to this information at any such hearing.

By order of the New Hampshire Public Utilities Commission this tenth day of May, 1993.

=====

NH.PUC*05/10/93*[75075]*78 NH PUC 256*New Hampshire Electric Cooperative Inc.

[Go to End of 75075]

Re New Hampshire Electric Cooperative Inc.

DF 92-230

Order No. 20,837

78 NH PUC 256

New Hampshire Public Utilities Commission

May 10, 1993

Report and Order Granting Approval for the Petition for Long Term Debt Financing from CFC.

Appearances: Mark Dean, Esq. of Broderick & Dean for the New Hampshire Electric Cooperative Inc.; Eugene F. Sullivan Jr., Scott Harrold and Chester Kokoszka for the Commission Staff.

BY THE COMMISSION:

I. PROCEDURAL HISTORY

On December 17, 1992 the New Hampshire Electric Cooperative (NHEC) filed a petition for

approval under RSA 369 to issue Long Term Debt in the amount of \$12,234,043 to the National Rural Utilities Cooperative Finance Corporation (CFC) to fund its construction program for the next 2 years as well as to Purchase \$734,000 Loan Capital Term Certificates.

On January 15, 1993 the Commission issued an Order of Notice setting a hearing for February 12, 1993 with the deadline for filing intervention by February 5, 1993,

On February 12, 1993 the duly noticed hearing was held.

On April 8, 1993 the New Hampshire Electric Cooperative filed its post-hearing brief and request for findings of fact and ruling of law.

II. POSITIONS OF THE PARTIES

A. NHEC

At the hearing, the NHEC presented the testimony of Mr. Von Ohlsen who stated that the financing would be used to fund NHEC's construction expenditures for the next 2 years and to purchase Loan Capital Term Certificates from CFC as contemplated by NHEC plan of reorganization. Mr Von Ohlsen stated that NHEC will have the choice at time of borrowing to fix its interest rates at either the variable rate or at a fixed rate, which will be reviewed every seven years by CFC over the 35 year term of the loan. Mr. Von Ohlsen testified that the variable rate at the time of the hearing was 4.625% and that the fixed rate was 7 3/8%. NHEC will have the option to convert its variable rate, if they choose that option, at any time, to a fixed rate if rates are increasing. NHEC stated that the construction funds are needed to fund construction projects to provide adequate and reliable service to its members. NHEC further stated that these rates are lower than those which were contemplated in its financial forecast presented to the commission in DR 92-009.

NHEC further states that the financing request had already been approved by CFC, and NHEC will draw down the funds under this authorization on an as-needed basis.

B. STAFF

The staff did not oppose this petition. Staff questioned Mr. Von Ohlsen on the current interest rates, how the variable rates would be determined and the option that NHEC would choose initially. Staff further questioned Mr. Von Ohlsen on NHEC load growth forecast. Mr. Von Ohlsen stated that some of the company's circuits are heavily stressed, and the construction projects would relieve this stress.

III. COMMISSION ANALYSIS

We will approve this petition. We find that the use of the proceeds from the issuance of these securities is required in order that NHEC may make improvements to its system in order to increase customer reliability and to provide adequate and reliable service. We also note that we have preliminarily approved the concept of this financing in Report and Order No. 20,618 in Docket Number DR 92-009.

In reviewing attachment REV 7 (the financial forecast) to Exhibit 1 we find the interest rates contained in the financial forecast to be higher than those proposed in this financing. The rates used in the forecast are at 9.45 % as compared to long term rates presented in this case of 7 3/8 for a fixed interest rate and 4.625% for the variable rate. These lower inter-

est rates will serve to hold down rates to the customer in the future below those contemplated in the reorganization plan.

We find that the purchase of Loan Capital Term Certificates are needed in order for NHEC to obtain these favorable rates.

We will require that NHEC not draw down any funds under this loan until NHEC emerges from bankruptcy, which depends on the resolution of the appeals of the Office of the Consumer Advocate and the Campaign of Ratepayers' Rights to the New Hampshire Supreme Court.

Our order will issue accordingly.

Concurring: May 10, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the New Hampshire Electric Cooperative be and hereby is authorized to issue \$ 12,234,043 of long term debt to the National Rural Utilities Cooperative Financing Corporation (CFC) for a term of thirty-five (35) years; and it is

FURTHER ORDERED, that the purpose of the loan is expenditures on construction as well as the purchase of \$734,043 of Loan Capital Term Certificates; and it is

FURTHER ORDERED, that funds may not be drawn down until NHEC emerges from Bankruptcy; and it is

FURTHER ORDERED, that on January 1st and July 1st of each year the New Hampshire Electric Cooperative, Inc. shall file with this Commission a detailed accounting duly sworn by its Treasurer showing the disposition of proceeds of this Debt until the expenditures of the whole of these proceeds shall be fully accounted for.

By order of the Public Utilities Commission of New Hampshire this tenth day of May, 1993.

=====

NH.PUC*05/11/93*[75076]*78 NH PUC 257*SPRINT Telecommunications Corporation

[Go to End of 75076]

Re SPRINT Telecommunications Corporation

DE 93-077

Order No. 20,838

78 NH PUC 257

New Hampshire Public Utilities Commission

May 11, 1993

Order *Nisi* Approving SPRINT Option B Calling Plan.

BY THE COMMISSION:

ORDER

On April 27, 1993 SPRINT Telecommunications Corporation (SPRINT) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce Option B Calling Plan to SPRINT interstate MTS Customers including associated FONCARD and Stand-Alone FONCARD customers.

WHEREAS, SPRINT proposed the filing become effective June 9, 1993; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than June 7, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, SPRINT cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than May 21, 1993 and is to be documented by affidavit filed with this office on or before June 8, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of SPRINT Tariff PUC No. 3 - INTERCITY TELECOMMUNICATIONS SERVICES are approved:

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9th Revised Page 1

2nd Revised Page 42.1

3rd Revised Page 50

3rd Revised Page 62

1st Revised Page 62.1

and it is

FURTHER ORDERED, that SPRINT file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the

effective date.

By order of the New Hampshire Public Utilities Commission this eleventh day of May, 1993.

=====

NH.PUC*05/11/93*[75077]*78 NH PUC 258*Hanover Water Works Company

[Go to End of 75077]

Re Hanover Water Works Company

DF 92-210

Order No. 20,839

78 NH PUC 258

New Hampshire Public Utilities Commission

May 11, 1993

Order Approving an Increase in Long Term Debt Financing.

BY THE COMMISSION:

ORDER

WHEREAS, Hanover Water Works Company, ("Hanover Water" or the "company"), is a corporation organized under a Special Act of the New Hampshire Legislature on March 31, 1893, amended January 28, 1925, and engaged in the business of supplying water for domestic and commercial use and for fire protection in the Town of Hanover, and with its principal place of business in Hanover, New Hampshire; and

WHEREAS, the company having filed with the Commission on April 19, 1993, a petition seeking an amendment to increase long term debt financing recently approved in Commission Order No. 20,687; and

WHEREAS, the proposed increase of \$240,000 shall be at the same rate of interest and with the same terms and conditions as the original financing; and

WHEREAS, the purpose of the requested increase in financing is because of revised estimates, by company engineers, which show an increase necessary in the cost of the capital improvements the company is planning on undertaking; and

WHEREAS, the proposed increase in the amount of financing appears to be in the public interest in that it will permit the company to complete the capital improvements required without relying on operating revenues to provide the majority of the funding for this project; and it is hereby

ORDERED, NISI, that Hanover Water be, and hereby is, granted authorization, pursuant to RSA 369:1 and 4, to increase its originally approved financing with First NH Bank of \$960,000 upwards to \$1,200,000, such borrowing to be in accordance with the terms and conditions set

forth in the petition; and it is

FURTHER ORDERED, that public notice of this order be given by onetime publication in newspapers having general circulation in the area served, such publication to be within ten days of the date of this order, and said publication to be documented by affidavit filed with this office no later than twenty days following the date of this order; and it is

FURTHERED ORDERED, that all persons interested in responding to the petition be notified that they may submit their comments to the commission or may submit a written request for a hearing in this matter no later than June 7, 1993; and it is

FURTHER ORDERED, that finalized copies of this financing arrangement be filed with the commission. A detailed accounting of the final actual issuance costs shall also be filed; and it is

FURTHER ORDERED, that on January 1st and July 1st of each year Hanover Water shall file with this commission, a detailed statement, duly sworn to by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of this financing until the whole of said proceeds shall have been fully accounted for; and it is

FURTHER ORDERED, that this Order NISI shall be effective June 10, 1993, unless a request for a hearing is filed with the commission as provided above or unless the commis-

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sion orders otherwise prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this eleventh day of May, 1993.

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NH.PUC*05/17/93*[75078]*78 NH PUC 259*New England Telephone and Telegraph Company

[Go to End of 75078]

Re New England Telephone and Telegraph Company

DR 93-028
Order No. 20,840
78 NH PUC 259

New Hampshire Public Utilities Commission

May 17, 1993

Order Approving Special Contract No. 93-1 with Lockheed Sanders, Inc. for Fiber Distributed Data Interface.

BY THE COMMISSION:

ORDER

On February 17, 1993, New England Telephone and Telegraph Company (NET) petitioned the New Hampshire Public Utilities Commission (Commission) for approval of a special contract to provide Lockheed Sanders, Incorporated (Lockheed Sanders) with Fiber Distributed Data Interface (FDDI) service, a standard for fiber optical Local Area Networks (LANs); and

WHEREAS, neither T1 (1.544 Mbps) service nor high capacity service (45 Mbps) meets the needs of Lockheed Sanders, in terms of bandwidth and flexibility; and

WHEREAS, under the terms of this special contract, NET will install and maintain an FDDI network which will enable Lockheed Sanders to support distributed applications and to transfer large data files between its locations in Nashua at a transmission rate of 100 Mbps; and

WHEREAS, staff has investigated this matter, including the petition, cost support and responses to staff data requests; and

WHEREAS, the provisioning of FDDI service for Lockheed Sanders, a high technology firm located in the State of New Hampshire, represents the first offering of this service by NET; and

WHEREAS, upon review of the petition and the staff recommendation, the Commission finds the Special Contract to be in the public good; it is hereby

ORDERED *NISI*, that New England Telephone's Special Contract No. 93-1 with Lockheed Sanders be approved; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules PUC 203.01, the company cause an attested copy of this Order *Nisi* to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than May 19, 1993 and it is to be documented by affidavit filed with this office on or before May 27, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than May 25, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective May 27, 1993, unless the commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this seventeenth day of May, 1993.

=====

NH.PUC*05/18/93*[75079]*78 NH PUC 259*Great Bay Power Corporation

[Go to End of 75079]

Re Great Bay Power Corporation

DF 93-075
Order No. 20,841

78 NH PUC 259

New Hampshire Public Utilities Commission

May 18, 1993

Petition for Approval to Grant Lien to Secure Up to \$20 Million of Advances from Certain Seabrook Joint Owners.

BY THE COMMISSION:

ORDER

WHEREAS, Great Bay Power Corporation ("GB Power"), formerly known as EUA Power Corporation ("EUA Power"), previously borrowed funds on a short term, secured basis from certain of the joint owners of the Seabrook Nuclear Power Plant ("Power Plant") pursuant to a certain Stipulation and Consent Order dated August 26, 1991 (the "First Stipulation"); and

WHEREAS, the First Stipulation was later extended and expanded and the funds borrowed by EUA Power thereunder have been repaid in full; and

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WHEREAS, EUA Power also entered into a certain Stipulation and Consent Order dated July 9, 1992 (the "Second Stipulation") which included certain conditions precedent to its becoming effective and was intended to provide EUA Power with an adequate source of funding until confirmation of its plan of reorganization; and

WHEREAS, the Second Stipulation has not become effective due to the failure of certain conditions precedent to occur; and

WHEREAS, GB Power has a current need for additional operating funds after the expiration of the First Stipulation and the failure of the Second Stipulation to become effective; and

WHEREAS, GB Power has now entered into a certain Stipulation and Consent Order dated March 5, 1993 (the "1993-1994 Stipulation"), under which United Illuminating Company ("UI") and Connecticut Light & Power ("CL&P") have agreed to advance to GB Power up to \$20 million aggregate principal amount on a short term basis for the purpose of paying GB Power's share of expenses related to the Power Plant and certain other expenses in an arrangement similar to the First Stipulation; and

WHEREAS, the 1993-1994 Stipulation was approved on March 5, 1993 by the United States Bankruptcy Court for the District of New Hampshire; and

WHEREAS, UI and CL&P and other joint owners of the Power Plant who may participate in making such advances ("Participating Joint Owners") will receive a senior lien on all the assets of GB Power until such time as any advances, with interest, are reimbursed; and

WHEREAS, under the terms of the Agreement for Joint Ownership, Construction and Operation of New Hampshire Nuclear Units, dated May 1, 1973 as amended ("JOA"), parties to the JOA, which include the Participating Joint Owners, have a right to make advances on behalf of other joint owners such as GB Power for Power Plant expenses upon certain terms and

conditions; and

WHEREAS, the advances established under the 1993-1994 Stipulation will allow GB Power to preserve the value of its interest in the Power Plant, because no other sources presently are willing to provide funds to the company; and

WHEREAS, under the terms of the 1993-1994 Stipulation, the Official Committee of Bondholders representing Series B and Series C secured noteholders affected by the lien has consented to the replacement of the senior lien on GB Power's assets; and

WHEREAS, the amount of interest charged on the advances is based upon the contract rate specified in paragraph 25.1 of the JOA and the financing as proposed is generally consistent with the terms of the JOA; it is hereby

ORDERED, that pursuant to RSA Chapter 369, the Commission finds that the proposed transaction, upon the terms set forth in GB Power's petition, is consistent with the public good; and it is

FURTHER ORDERED, that GB Power be and hereby is granted the authority to receive advances of up to \$20 million from UI and CL&P and other Participating Joint Owners and to take all actions necessary for the consumption of such advances, including but not limited to providing a senior lien on all of GB Power's assets to UI, CL&P and other Participating Joint Owners; and it is

FURTHER ORDERED, that after executing all documents necessary to complete this transaction, GB Power shall file copies of the same with the Commission.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of May, 1993.

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NH.PUC*05/18/93*[75080]*78 NH PUC 261*Public Service Company of New Hampshire

[Go to End of 75080]

Re Public Service Company of New Hampshire

DE 93-069

Order No. 20,842

78 NH PUC 261

New Hampshire Public Utilities Commission

May 18, 1993

Order *Nisi* Granting Revision of Small Power Producer Meter Testing Standards.

BY THE COMMISSION:

ORDER

On April 2, 1993 Public Service Company of New Hampshire (PSNH) (Petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition for the revision of certain standards regarding the frequency of testing meters used to record the generation of Small Power Producers (SPPs). Subsequently on April 19, 1993 the Petitioner revised its request; and

WHEREAS, SPP meter testing is required annually by Order No. 14,593 under DE 78-232 and DE 78-233, issued December 1, 1980; and

WHEREAS, subsequently, inasmuch as use of the meters did not reveal "any inherent adverse accuracy conditions", the Commission made an exception to the annual testing requirement for "self-contained single-phase meters used in generation facilities of 10 Kw or less". These meters were, hence, required to be "tested on a 12 year or selective test schedule, the same as prescribed in the Commission's rules and regulations" by Order No. 15,738 under DE 78-232 and DE 78-233 issued June 30, 1982; and

WHEREAS, a review of the generation meter testing experience by the Petitioner has concluded that there are no adverse inherent accuracy conditions in using a meter for recording generation which warrant annual testing; and

WHEREAS, the one hundred twenty-five dollar (\$125) estimated cost of annual testing is not inconsequential and can be expensive for some small hydros; and

WHEREAS, in the absence of a compelling reason for distinguishing a meter in its use for recording SPP generation from its use in recording sales to any customer of PSNH, the Petitioner seeks to have the meters used to record generation tested in accordance with the schedule set forth in PART Puc 305 of the Commission's Rules and Regulations regarding Meter Accuracy and Testing; and

WHEREAS, the Commission finds it to be in the public interest to revise that portion of our Order No. 15,738 regarding annual meter verification; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the Petitioner effect notification to the public by: (1) causing an attested copy of this order to be published no later than May 28, 1993, once in a newspaper having general state-wide circulation; (2) requesting that the major electric utilities in the state (namely, Connecticut Valley Electric Company, Inc., Granite State Electric Company, New Hampshire Electric Cooperative, Inc., Public Service Company of New Hampshire, and UNITIL Service Corporation) notify each small power producer affected by this order by first class U.S. mail postmarked on or before May 28, 1993; and (3) documenting compliance with these notice provisions by affidavit to be filed with the Commission on or before June 17, 1993; and it is

FURTHER ORDERED, that all persons interested in responding to this petition may submit their comments or file a written request for a hearing on this matter before the Commission no later than June 14, 1993; and it is

FURTHER ORDERED, that the following requirements of meter testing be in conformance with the New Hampshire Public Utilities Commission Rules & Regulations, which may be

revised from time to time, and these rules and regulations are presently summarized as follows:

- A. that self-contained single phase meters (no separate CTs or PTs) be tested on a 12 year or selective test schedule;
- B. that self-contained polyphase meters be tested on a 12 year test schedule;
- C. that single-phase transformer-rated meters be tested on an 8 year test schedule; and
- D. that polyphase transformer-rated meters be tested on a 4 year test schedule; and it is

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FURTHER ORDERED, that the Petitioner and the other major electric utilities in the state retain an exception to these standards in order to provide consistency with NEPOOL requirements, by maintaining annual meter testing for SPP projects with a capacity of 1 MW or greater and for all projects, regardless of size, that wheel power through their system; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective June 17, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this eighteenth day of May, 1993.

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NH.PUC*05/18/93*[75081]*78 NH PUC 262*GTE New Hampshire

[Go to End of 75081]

Re GTE New Hampshire

DR 93-055

Order No. 20,843

78 NH PUC 262

New Hampshire Public Utilities Commission

May 18, 1993

Order Approving Modifications to Premium Calling Features Tariff.

BY THE COMMISSION:

ORDER

On March 18, 1993 Contel of New Hampshire, Inc. d/b/a GTE New Hampshire (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to modify its existing tariff for Premium Calling Features for effect April 12, 1993; and

WHEREAS, on April 12, 1993 the proposed tariff pages were suspended by Order No.

20,811 to allow for further investigation; and

WHEREAS, the Commission staff has investigated this matter including the petition, cost support and responses to staff data requests; and

WHEREAS, upon review of the petition and the staff recommendation, the Commission finds the proposed offering to be in the public good; it is therefore

ORDERED, that the proposed revisions to NHPUC No. 7

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Eighth Revised Sheet

Section 6

Ninth Revised Sheet 1

Eighth Revised Sheet 5

Eighth Revised Sheet 6

Seventh Revised Sheet 7

Sixth Revised Sheet 8

Fifth Revised Sheet 9

Fourth Revised Sheet 10

are approved.

By order of the New Hampshire Public Utilities Commission this eighteenth day of May, 1993.

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NH.PUC*05/18/93*[75082]*78 NH PUC 262*Innovative Telecom Corporation

[Go to End of 75082]

Re Innovative Telecom Corporation

DE 93-082

Order No. 20,844

78 NH PUC 262

New Hampshire Public Utilities Commission

May 18, 1993

Order *NISI* Authorizing Rate and Other Changes in HSTDC Service and IntraLATA Toll Service.

BY THE COMMISSION:

ORDER

On April 29, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from Innovative Telecommunications Corporation (ITC), a New Hampshire corporation, for authority to change rates and other aspects of its High Security Telephone Debit Card offering (HSTDC), and to introduce IntraLATA toll services.

WHEREAS, and the changes in rate and other aspects of the HSTDC, and the intraLATA toll services are supported by the petition and in compliance with the Commission's filing requirements; and

WHEREAS, the commission finds approval of the petition to be in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

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ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than June 14, 1993; and it is

FURTHER ORDERED, that said petitioner effect said notification by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, said publication to be no later than May 28, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before June 17, 1993; and it is

FURTHER ORDERED, *NISI*, that ITC hereby is granted interim authority to offer intrastate long distance services in the state of New Hampshire subject to the conditions in our Order No. 20,769, issued February 23, 1993; and it is

FURTHER ORDERED, *NISI*, that ITC is hereby is granted authority to change rates and other aspects of its HSTDC offering as described in its petition; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow ITC to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above cited conditions as a result of the Commission's monitoring; and it is

FURTHER ORDERED, ITC file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that Innovative Telecom Corporation, NHPUC No. 2, superseding NHPUC No. 1 is approved; and

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this eighteenth day of May, 1993.

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NH.PUC*05/24/93*[75083]*78 NH PUC 263*Nuclear Emergency Planning

[Go to End of 75083]

Re Nuclear Emergency Planning

DE 93-102

Order No. 20,845

78 NH PUC 263

New Hampshire Public Utilities Commission

May 24, 1993

BY THE COMMISSION:

ORDER

WHEREAS, On April 13, 1993, the New Hampshire Office of Emergency Management (NHOEM) submitted a request for an assessment against North Atlantic Energy Service Corporation (NAEC) for the estimated cost to maintain the State of New Hampshire local community Radiological Emergency Response Plans (RERP) for the Seabrook Station Nuclear Power Plant; and

WHEREAS, the request addresses the estimated annual costs associated with personnel, training, current expenses, and equipment incurred by State agencies and outside support agencies which have responsibilities with respect to the Seabrook Station RERP; and

WHEREAS, the requests for State agencies are based on fiscal year 1992 and 1993 expenditures and the State Fiscal Year 1992 and 1993 budget; and

WHEREAS the total requested assessment consists of two parts: (1) \$1,094,975 for Fiscal Year 1993 for State agency and outside support agency costs; and (2) the direct provision of certain equipment and/or services in support of the RERP. Also incorporated in this assessment is annual maintenance expenses in the amount of \$81,384 for local municipalities, which assessment has already been made. See *Nuclear Emergency Planning*, DE 89-200, Order No. 19,676 (January 22, 1990) (Order 19,676) and Order No. 19,757 (March 15, 1990); and

WHEREAS, the breakdown of the items to be assessed in this order are as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

<i>Class</i>		<i>Amount</i>
10	Personnel - perm.	\$ 238,739
20	Current Expenses	58,169
28	Rent	33,093

30	Equipment	19,635
40	Indirect Costs	37,572
46	Consultants	43,004
49	DPHS	250,709
50	Personnel (Temp. OT)	138,415
60	Benefits	107,553
70	In-State Travel	16,000
80	Out-of-State Travel	2,000
91	Rockingham County	42,761
94	Local Support	81,384
96	State Departments	16,622
97	Other Support Agencies	13,453
TOTAL ASSESSMENT		\$1,094,975

;and

WHEREAS, NHOEM requests that payments of the above assessment be made in monthly installments; and

WHEREAS, NHOEM has requested to be allowed to adjust monthly cash draws based on previous monthly expenditures. The rationale for the NHOEM billing mechanism is to minimize the potential for excess funds at the end of the fiscal year and,

WHEREAS, NHOEM requests retroactive approval of the FY '92 budget in the amount of \$1,292,003; and

WHEREAS, the services to be provided directly by NAEC in support of the RERP are as follows:

- A) Maintenance of a contract for the provision of emergency worker thermo luminescent dosimeters and emergency worker dosimetry evaluation service. NHRERP volume 1, section 2.7.
- B) Maintenance and upkeep of reception/ decontamination center equipment and support vehicles. NHRERP volume 1, section 2.1.
- C) Maintenance and upkeep of state transportation staging area support equipment. NHRERP volume 1, section 2.4.
- D) Maintenance and upkeep of the New Hampshire Incident Field Office facilities, Joint Telephone Information Center and Media Center. NHRERP volume 1, section 2.3 and 2.4.
- E) Maintenance and upkeep of the alert and notification system for the Seabrook Emergency Planning Zone (sirens and tone alert radios). NHRERP volume 1, section 2.1.
- F) Maintenance and upkeep of New Hampshire Monitoring Team equipment. NHRERP volume 1, section 2.5.
- G) Provision of instructor personnel to support annual training requirements. NHRERP volume 1, section 3.3.
- H) Document Control and distribution support. NHRERP volume 1, section 2.3.
- I) Production and distribution of emergency public information. NHRERP volume 1, section 2.3.

J) Special needs support. NHRERP volume 1, section 2.1.

K) Maintenance and upkeep of specified equipment and supplies for local emergency operations centers. NHRERP, Volume 1, Section 2.4; and,

WHEREAS, RSA 107-B sets forth the Commission's jurisdiction over the assessment of these costs. It provides in pertinent part as follows:

107-B:1 Nuclear Emergency Response Plan.

I. The director of emergency management shall, in cooperation with affected local units of government, initiate and carry out a nuclear emergency response plan as specified in the licensing regulations of each nuclear electrical generating plant. The chairman of the public utilities commission shall assess a fee from

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the utility, as necessary, to pay for the cost of preparing the plan and providing the equipment and materials to implement it.

107-B:3 Assessment.

I. The cost of preparing, maintaining, and operating the nuclear planning and response program shall be assessed against each utility which has applied for a license to operate or is licensed to operate a nuclear generating facility which affects municipalities under RSA 107-B:1, II, in such proportions as the chairman of the public utilities commission determines to be fair and equitable.

;and

WHEREAS, NHOEM submits, and the supporting schedules support, that the above stated costs will provide the resources and personnel required by the various State agencies and outside agencies; and

WHEREAS, Pursuant to RSA 107-B:1, I have reviewed the NHOEM's request and supporting data; and

WHEREAS, I find that the budget costs contained therein relate to preparing the plan and providing equipment and materials necessary to implement it; and

WHEREAS, I also find that the direct assessment of equipment and/or services is related to preparing the RERP and providing equipment and/or services necessary to implement it. I therefore approve the assessment of \$1,094,975 for FY 1993 and the direct provision of equipment and/or services as specified above; and

WHEREAS, additionally, the NHOEM proposed billing mechanism is reasonable. Accordingly, NHOEM is authorized to require that NAEC payments of this assessment be drawn on anticipated monthly expenditures and, further, NHOEM is authorized to adjust monthly cash draws based on previous monthly expenditures; it is hereby

ORDERED, that I hereby certify that \$1,094,975 for FY 1993 for estimated annual costs associated with personnel, training, current expenses and equipment incurred by State agencies and outside support agencies plus the incorporation of local administration and training costs as

previously assessed in Order 19,676, and the direct provision of equipment and/or services as specified in the foregoing report be assessed against North Atlantic Energy Service Corporation pursuant to RSA 107-B; and it is

FURTHER ORDERED, that NHOEM be authorized to require NAEC to make payments against the total financial assessment of \$1,094,975 on a monthly basis; and it is

FURTHER ORDERED, that the payments of this assessment by NAEC be drawn on anticipated monthly expenditures; and it is

FURTHER ORDERED, that NHOEM is authorized to adjust monthly cash draws based on previous monthly expenditures; and it is

FURTHER ORDERED, that the year end balance for Fiscal Year 1992 be applied as a credit to reduce the total financial assessment; and it is

FURTHER ORDERED, that NHOEM provide the Treasurer of the State of New Hampshire with the amount of each monthly installment by the 15th day of the previous month (with an information copy to be provided to the Chairman of the New Hampshire Public Utilities Commission) so that the Treasurer may then bill NAEC in accordance with the NHOEM statement; and it is

FURTHER ORDERED, that NAEC make payment on or before the end of the same month; and it is

FURTHER ORDERED, that the FY '92 budget is approved in the amount of \$1,292,003.

By order of the Chairman of the Public Utilities Commission of New Hampshire this 24th day of May, 1993.

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NH.PUC*05/25/93*[75084]*78 NH PUC 266*New England Telephone

[Go to End of 75084]

Re New England Telephone

DR 93-078
Order No. 20,846
78 NH PUC 266

New Hampshire Public Utilities Commission

May 25, 1993

Order Authorizing Administrative Change to NET's Nova Centrex and Intellipath Centrex Tariffs.

BY THE COMMISSION:

ORDER

On April 29, 1993, New England Telephone (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking approval of an administrative filing change to the Vintage I and Vintage II Nova Centrex and Intellipath Centrex tariffs for effect May 29, 1993; and

WHEREAS, the proposed revisions serve to clarify language and charges relative to main station lines and extension lines; and

WHEREAS, upon review of the petition and the Staff recommendation, the Commission finds the proposed clarification to be in the public good; it is therefore

ORDERED, that the following tariff pages of New England Telephone are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC - No. 75
Part A - Section 7 - Seventh Revision of Page 25
Third Revision of Pages 29.4 and 29.5
Eighth Revision of Page 32

NHPUC - No. 75
Part C - Section 6 - Sixth Revision of Page 7
Third Revision of Pages 11.4 and 11.5
Fourth Revision of Page 14

and it is

FURTHER ORDERED, that the above tariff pages shall be effective as filed; and it is

FURTHER ORDERED, that the above additions to NHPUC No. 75 Tariff shall be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of May, 1993.

=====

NH.PUC*05/25/93*[75085]*78 NH PUC 266*Connecticut Valley Electric Company, Inc.

[Go to End of 75085]

Re Connecticut Valley Electric Company, Inc.

DE 93-099

Order No. 20,847

78 NH PUC 266

New Hampshire Public Utilities Commission

May 25, 1993

Order Requiring CVEC to Provide a List of all B&M Railroad Right- of-Way Crossing
Compensations.

BY THE COMMISSION:

ORDER

The New Hampshire Public Utilities Commission Staff (Staff) has requested Connecticut Valley Electric Co., Inc. (CVEC) to provide specific information relating to the contractual arrangement between CVEC and Boston & Maine Railroad (B&M) in order to assist the Staff in carrying out its review of the practices and procedures of B&M railroad with regards to the issue of compensation as ordered by the Commission Chairman at its public meeting on December 7, 1992; and

WHEREAS, pursuant to the Master License Agreement, dated January 1, 1991, between CVEC and B&M, such information may not voluntarily be disclosed without written consent of B&M or by court order, and B&M has respectfully refused to permit CVEC's voluntary disclosure of the terms of the agreement; it is hereby

ORDERED, that, CVEC shall provide the Staff with a list of B&M right-of-way line crossings and compensation as requested in the Staff's April 7, 1993 letter within 5 business days of this order; and it is

FURTHER ORDERED, that the Staff shall use the list only for its review of B&M practices and procedures.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of May, 1993.

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NH.PUC*05/25/93*[75086]*78 NH PUC 267*Generic Discounted Rates

[Go to End of 75086]

Re Generic Discounted Rates

DR 91-172

Order No. 20,848

78 NH PUC 267

New Hampshire Public Utilities Commission

May 25, 1993

Report and Supplemental Order Denying Request for a Hearing on Draft Checklist for Economic Development and Business Retention Special Contracts.

BY THE COMMISSION:

REPORT

On April 2, 1993, by Order No. 20,805, the Commission provided that any interested party may file written comments and/or request an opportunity to be heard on the matter of a checklist developed by the Commission Staff (Staff) for economic development and business retention

discounted rates. The checklist was developed at the direction of the Commission, by Report and Order No. 20,633, dated October 19, 1992. It consists of information deemed by Staff to be necessary for use as a screen for utilities before filing special contracts for economic development and business retention and as an outline of the information the Commission will need in order to determine that the contracts are in the public interest.

Order No. 20,633 sets forth the Commission findings to which the Staff checklist must conform. The Commission findings were based on Commission consideration of evidence introduced at duly noticed hearings held on February 19-21, 1992 and in the briefs subsequently filed by the parties and Staff. At issue now is not relitigation of the issues addressed in Order No. 20,633, but to determine whether the checklist proposed by Staff conforms with the Commission findings in the order.

Various parties responded to the Commission's invitation, by Order No. 20,805, to file comments and/or request an opportunity to be heard on the matter of whether the Staff's checklist conformed with the guidelines set forth in Order No. 20,633. Granite State Electric Company (GSEC), Public Service Company of New Hampshire (PSNH) and the Business and Industry Association (BIA) submitted comments on the Staff's checklist. Along with its comments, PSNH requested technical sessions among the parties and Staff without the Commissioners present to discuss the checklist. EnergyNorth Natural Gas, Inc. (ENI) filed a request for a hearing without comments and Northern Utilities (NU) joined in PSNH's Request for Technical Sessions. ENI did not cite along with its request for additional hearings its reasons for desiring additional hearings rather than filing its comments for Commission review. Our reason for inviting comments on the Staff checklist was not to offer an opportunity for an additional hearing in lieu of filing comments. Additional hearings may be scheduled if, on review of the various comments filed, the Commission finds that the Staff's proposed checklist does not conform to the Commission's directives in Order No. 20,633. There is nothing filed in the comments to date that would lead us to such a conclusion. Accordingly, ENI's request for a hearing on the Staff's checklist is denied.

The parties will be allowed an additional period of time, until June 4, 1993, to file comments. After review of all filed comments, the Commission will decide whether the Staff checklist shall be implemented as proposed, whether the checklist should be modified or whether additional proceedings or technical sessions should be conducted prior to ruling on the checklist.

Our order will issue accordingly.

Concurring: May 25, 1993

ORDER

Based on the foregoing report, which is made a part hereof, it is hereby

ORDERED, that the Request for Hearing filed by EnergyNorth Natural Gas, Inc. is denied; and it is

FURTHER ORDERED, that the requests by Public Service Company of New Hampshire and Northern Utilities for technical sessions is denied without prejudice pending review of any additional comments by the parties; and it is

FURTHER ORDERED, that the parties and Staff, as well as other interested persons, may

file comments on whether the proposed Staff checklist conforms with the Commission

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directives set forth in Order No. 20,633, dated October 19, 1992.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of May, 1993.

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NH.PUC*05/25/93*[75087]*78 NH PUC 268*Customer-owned Coin-operated Telephone (COCOT) Providers

[Go to End of 75087]

Re Customer-owned Coin-operated Telephone (COCOT) Providers

Additional respondent: New England Telephone

DE 91-213
Order No. 20,849
78 NH PUC 268

New Hampshire Public Utilities Commission

May 25, 1993

Order Approving Revisions to NET's Public Access Line Tariff Establishing a Credit to Customers with Charges Greater than \$80 per Month.

BY THE COMMISSION:

ORDER

On August 24, 1992, the New Hampshire Public Utilities Commission (Commission) issued Order No. 20,581 approving five identical special contracts between New England Telephone and Telegraph Company (NET) and five Customer Owned Coin Operated Telephone (COCOT) providers; and

WHEREAS, the special contracts offered the five COCOT providers a 20 percent credit when NET charges billed to a COCOT exceed \$80 in a particular month, including charges for Public Access Line (PAL) service, Curb-A-Charge service, sent-paid local and intraLATA toll usage, non-sent-paid local and intraLATA toll usage, TOUCH-TONE and directory assistance; and

WHEREAS, Order No. 20,581 directed NET to file a tariff of general application to all COCOT providers containing the same terms and conditions as the special contracts or show cause why such tariff should not be filed; and

WHEREAS, NET initially filed a Response to Commission Notice to Show Cause Why Tariffs of General Application Should Not Be Filed opposing the filing of a tariff, but subsequently agreed to file such tariff; and

WHEREAS, on May 3, 1993, NET filed revisions to its PAL tariff in compliance with Order No. 20,581 for effect June 2, 1993; and

WHEREAS, Part A - Section 8 Page 7 Second Revision paragraphs 8.4.4.B. and C., include TOUCH-TONE and directory assistance as charges to which the credit eligibility will apply; and

WHEREAS, TOUCH-TONE and directory assistance are no longer separate charges for PAL service but are included in the basic monthly PAL service rate; and

WHEREAS, upon review of the petition and the Staff recommendation, the Commission finds the proposed offering to be in the public good; it is hereby

ORDERED, that the following tariff pages of New England Telephone are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC - No. 75
Part A - Section 8 - Third Revision of Table of Contents Page 1;
Section 8 - First Revision of Page 6

and it is

FURTHER ORDERED, that Part A Section 8, Second Revision of Page 7 be amended to exclude reference to separate charges for TOUCH-TONE and directory assistance and filed as the Third Revision in Lieu of Second Revision; and it is

FURTHER ORDERED, that the above tariff pages shall be effective June 2, 1993; and it is

FURTHER ORDERED, that the above additions to NHPUC No. 75 Tariff be resubmitted as required by NH Admin. Code, Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of May, 1993.

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NH.PUC*05/25/93*[75088]*78 NH PUC 269*Enhanced 911 Access Line Surcharge

[Go to End of 75088]

Re Enhanced 911 Access Line Surcharge

DR 93-095
Order No. 20,850
78 NH PUC 269

New Hampshire Public Utilities Commission

May 25, 1993

Order Directing the Local Exchange Companies to Prepare for the Levying of an Access Line Surcharge to Fund the State of New Hampshire Enhanced 911 System.

BY THE COMMISSION:

ORDER

The general court of the State of New Hampshire has declared that the interests of the state's citizens will be served by a coordinated statewide enhanced 911 (E911) system; and

WHEREAS, the New Hampshire Revised Statute Annotated (RSA)106-H:9 establishes the funding of the E911 system through a telephone line surcharge; and

WHEREAS, the surcharge is to be uniform throughout the state and be levied upon each residence and business telephone exchange line, including PBX trunks and Centrex lines, trunks and lines serving cellular communications towers in the state, and semi-public coin and public access lines; and

WHEREAS, the surcharge shall not be imposed upon more than 25 lines per customer billing account; and

WHEREAS, each local exchange telephone company is to file tariffs containing the surcharge with the New Hampshire Public Utilities Commission (Commission); and

WHEREAS, the local exchange companies are required to remit the surcharge amounts on a monthly basis to the enhanced 911 services bureau beginning September 1993; and

WHEREAS, the surcharge amounts are to be established, reviewed and amended on an annual basis after the budget has been approved in concert with the determination of changes in the number of access lines, and if appropriate, new tariffs are to be filed with the Commission reflecting the amended surcharge amount; and

WHEREAS, the initial surcharge amount will not be available until passage of the pending 1994/1995 biennial operating budget for the state; and

WHEREAS, the actual surcharge, upon its determination will be transmitted under a separate and subsequent order; and

WHEREAS, time is of the essence to begin implementation of the surcharge billing process; it is hereby

ORDERED, that each local exchange company initiate the required changes to their administrative and operational support systems to allow commencement of the E911 surcharge beginning with the August 1, 1993 billing cycle, to include initial notification literature; and it is

FURTHER ORDERED, the LECs shall provide notification to all customers of the mandatory surcharge, the surcharge amount, and where it is incorporated on the bill. Such notification shall be provided at least semi-annually; and it is

FURTHER ORDERED, that each local exchange company be prepared to file with the Commission tariffs for effect August 1, 1993, reflecting the E911 surcharge to be determined and transmitted under a subsequent order; and it is

FURTHER ORDERED, that Staff and the local exchange companies determine a proper method of accounting for revenues collected and expenses incurred as a result of E911 before August 1, 1993.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of May, 1993.

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NH.PUC*05/25/93*[75089]*78 NH PUC 269*Public Service Company of New Hampshire

[Go to End of 75089]

Re Public Service Company of New Hampshire

DR 93-103

Order No. 20,851

78 NH PUC 269

New Hampshire Public Utilities Commission

May 25, 1993

Order Granting Protective Treatment over Special Contract with Freudenberg-NOK.

BY THE COMMISSION:

ORDER

On May 18, 1993, Public Service Company of New Hampshire (PSNH) filed with the New Hampshire Public Utilities Commission (Commission) a request for approval of a special

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contract between PSNH and Freudenberg-NOK General Partnership (Special Contract). Included in the filing was a redacted Technical Statement.

WHEREAS, PSNH filed a Motion for Protective Order on the Technical Statement and of discovery materials, testimony, argument, or briefing relative to the Technical Statement (Related Materials); and

WHEREAS, in its motion PSNH states that the Technical Statement and Related Materials contain information concerning Freudenberg- NOK's operating costs, contractual arrangements, electric usage and alternatives and other competitively sensitive data, disclosure of which would result in substantial harm to Freudenberg-NOK by providing its competitors with a view of Freudenberg-NOK's cost; and

WHEREAS, in its motion PSNH states that public disclosure of the Technical Statement and Related Materials could also harm PSNH and its customers by discouraging other businesses from working with PSNH to expand or locate in New Hampshire; and

WHEREAS, the information identified above is a necessary part of the filing, and important for Staff to review in evaluating the proposed contract; and

WHEREAS, the Commission recognizes the importance of Staff having the opportunity to review fully the materials which support a proposed special contract, in order to responsibly carry out its duties; it is hereby

ORDERED, that the Motion for Protective Order be, and hereby is, granted to allow Staff review of the Special Contract and Supporting Materials; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of May, 1993.

=====

NH.PUC*05/25/93*[75090]*78 NH PUC 270*Public Service Company of New Hampshire

[Go to End of 75090]

Re Public Service Company of New Hampshire

DR 93-083

Order No. 20,852

78 NH PUC 270

New Hampshire Public Utilities Commission

May 25, 1993

Petition to Approve Sawmill Generation Deferral Rate SGD Order Approving Temporarily Special Contract NHPUC-88.

BY THE COMMISSION:

ORDER

On April 30, 1993, Public Service Company of New Hampshire (PSNH) filed testimony, a technical statement and exhibits supporting a new tariff rate, Sawmill Generation Deferral Service Rate SGD, effective June 1, 1993, designed to retain electric service to qualifying sawmills who would otherwise install and utilize cogeneration or self-generation equipment; and WHEREAS, PSNH filed in conjunction with the Sawmill Deferral Rate, Special Contract NHPUC-88 with New Kearsarge Corporation (NKC), that renders service effective June 1, 1993 for a period of five years, in accordance with the terms of Rate SGD; and

WHEREAS, PSNH avers that NKC's plan to install cogeneration and leave the PSNH system is imminent and would have an adverse effect on PSNH ratepayers; and

WHEREAS, the Commission requires a thorough investigation of PSNH's filing before a decision on the merits can be made; it is hereby

ORDERED, that Special Contract NHPUC-88 between PSNH and New Kearsarge Corporation is approved on a temporary basis pending our decision concerning Rate SGD; and it is

FURTHER ORDERED, that PSNH's proposed tariff rate schedule, Sawmill Generation Deferral Service Rate SGD, is suspended pending Commission review; and it is

FURTHER ORDERED, that a prehearing conference be held on PSNH's petition to implement the Sawmill Generation Deferral Service Rate SGD, pursuant to RSA Chapter 541-A:16, V, before the Public Utilities Commission at its offices in Concord, located at 8 Old Suncook Road, at 10:00 a.m. on June 15, 1993; and it is

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FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner shall notify all persons desiring to be heard by causing a copy of this notice to be published once in a newspaper having general circulation in that portion of the state in which operations are conducted, such publication to be no later than May 27, 1993, with affidavit filed on or before June 15, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 541-A:17 and Puc 203.02, any party seeking to intervene in the proceeding shall submit a motion to intervene with a copy to the petitioner and Commission on or before June 11, 1993.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of May, 1993.

Any individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability, should contact the PUC ADA Coordinator, at the New Hampshire Public Utilities Commission, 8 Old Suncook Road, Concord, New Hampshire 03301-5185; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Preferably, notification of the need for assistance should be made within one week from the date of the scheduled event.

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NH.PUC*05/25/93*[75091]*78 NH PUC 271*Investigation Into 1992 Energy Policy Act Requirements

[Go to End of 75091]

Re Investigation Into 1992 Energy Policy Act Requirements

DE 93-071

Order No. 20,853

78 NH PUC 271

New Hampshire Public Utilities Commission

May 25, 1993

Report and Order Addressing Interventions and Accepting Procedural Schedule.

Appearances: David Saggau, Esq. on behalf of Granite State Electric Company; LeBeouf, Lamb, Leiby and MacRae by Scott Mueller, Esq. on behalf of Concord Electric Company and Exeter and Hampton Electric Company; William Bayard on behalf of New Hampshire Electric Cooperative, Inc.; George E. Sansoucy, on behalf of Waste Management of New Hampshire, Inc.; Kenneth A. Picton, Esq. on behalf of Connecticut Valley Electric Company, Inc.; Thomas Getz, Esq. on behalf of Public Service Company of New Hampshire; Kenneth A. Colburn on behalf of the Business and Industry Association of New Hampshire; James Anderson, Esq. on behalf of the Office of Consumer Advocate on behalf of residential ratepayers; Susan Chamberlin, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

I. PROCEDURAL HISTORY

On April 16, 1993, the New Hampshire Public Utilities Commission (Commission) issued an order of notice, which was revised on May 7, 1993, regarding a new docket opened in conformance with the requirements of the federal Energy Policy Act of 1992. The Act required public utility commissions to complete a proceeding no later than October 24, 1993 which addresses the following four issues:

- (1) the potential for increases or decreases in the cost of capital for the purchasing utility, and any resulting increases or decreases in retail electric rates;
- (2) whether the use by nontraditional electricity producers of capital structures with more debt than utilities threatens reliability or provides these producers an unfair advantage over utilities;
- (3) whether to implement procedures for the advance approval or disapproval of specific long-term wholesale power purchases; and
- (4) whether to require as a condition for the approval of a long-term power purchase that there be reasonable assurance of fuel supply adequacy.

The Commission made Public Service Company of New Hampshire, Connecticut Valley Electric Company, Inc., the New Hampshire Electric Cooperative, Inc., Concord Electric Company, Exeter and Hampton Electric Company and Granite State Electric Company mandatory parties to the proceeding, other entities were offered an opportunity to move to intervene.

At a prehearing conference on May 18, 1993, the parties and staff addressed a motion to intervene by the Business and Industry Association of New Hampshire, to which there was no objection, and a petition to intervene and for Public Utility Regulatory Policies Act (PURPA) compensation filed by the Campaign

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for Ratepayers Rights (CRR). CRR did not appear at the prehearing conference.

The CRR petition had not been reviewed by any party or staff, as CRR had not filed its petition with any entity other than the Commission. The Commission, therefore, distributed

copies of CRR's petition and requested that anyone wishing to respond do so no later than May 28, 1993. Previously, at its May 17, 1993 public meeting, the Commission had granted Waste Management of New Hampshire, Inc.'s motion for limited intervention, filed by George E. Sansoucy.

The parties and Staff stipulated to the following procedural schedule:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Data Requests by staff and intervenors to utilities and utilities to staff, intervenors and small power producers	May 28, 1993
Data Responses	June 25
Technical session	July 9 10 am
Position Papers from all parties and staff	August 13
Second set of Data Requests	August 20
Data responses	September 3
Further Written Comments	September 7
Settlement session or development of Joint Recommendations	September 9 10 am
Hearing on the merits	Sept 14-15 10 am

II. COMMISSION ANALYSIS

The Commission finds the foregoing schedule to be in the public good and commends the parties and Staff in developing a prompt schedule which allows for development of the issues within the narrow time frame set by the Energy Policy Act of 1992. As noted in the prehearing conference, the Commission will entertain requests for confidentiality regarding information requested in data requests, but cautions any entity requesting such protective treatment to make a filing pursuant to RSA 91-A, the Right to Know Law, that outlines with specificity why it believes the information should be treated in a confidential manner. Further, any party participating in the docket must strictly adhere to any confidentiality orders which may be imposed.

We also will order all participants in the proceeding, with the exception of the Office of Consumer Advocate and the Commission Staff, to share equally in the cost of the transcripts.

Finally, we will grant the request to intervene filed by BIA and note that we have previously granted the request for limited intervention by Waste Management filed by Mr. Sansoucy. We await responses to the petition for intervention and PURPA compensation filed by CRR and, therefore, will defer ruling on CRR's request.

Our order will issue accordingly.

Concurring: May 25, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the procedural schedule stipulated to between the parties and the Staff and set forth in the foregoing Report is adopted for the duration of this matter; and it is

FURTHER ORDERED, that the Business and Industry Association of New Hampshire is granted full intervention; and it is

FURTHER ORDERED, that the petition to intervene and request for PURPA compensation filed by Campaign for Ratepayers Rights is deferred until parties and Staff have had an opportunity to respond to the petition, no later than May 28, 1993; and it is

FURTHER ORDERED, that costs of transcripts shall be split evenly between the parties, with the exception of the Office of the Consumer Advocate.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of May, 1993.

=====

NH.PUC*05/25/93*[75092]*78 NH PUC 273*Energy Policy Act of 1992

[Go to End of 75092]

Re Energy Policy Act of 1992

DE 93-071

Order No. 20,854

78 NH PUC 273

New Hampshire Public Utilities Commission

May 25, 1993

Order Requiring Certain Qualifying Facilities to appear before the Commission to Show Cause Why Their Long Term Rates Should Not Be Rescinded for Failure to Comply with the Conditions of Their Rate Orders.

BY THE COMMISSION:

ORDER

On March 17, 1993 the Commission through its attorney contacted all Qualifying Facilities (QFs) selling energy and/or capacity to New Hampshire electric utilities to clarify that the Commission retains jurisdiction over, *inter alia*, changes in ownership of such facilities and to require all such facilities to report to the Commission by May 1, 1993 any transfers of ownership that have occurred in the past for its review and to require any QF on a long term rate order issued by this Commission or a long term contract with the utility to report affirmatively by May 1, 1993 that no such transfers of any ownership rights have occurred since the effective date of its order or contract if such is the case; and

WHEREAS, by letter of April 28, 1993 the Commission through its attorney further clarified

its jurisdictional authority and the intent of its investigation and continued the date for submission of the requested information to May 14, 1993; and

WHEREAS, the following QFs hold long term rate orders issued by the Commission and by May 21, 1993 had not responded to the inquiry by its staff:

- Campton Dam
 - Concord Steam Company
 - Dunbarton Road Landfill
 - Fiske Mill Hydro
 - Forsters Mill Hydro
 - Franklin Falls
 - Goodrich Falls
 - Lisbon Hydro
 - Peterborough Hydro-Upper
 - Salmon Brook Station #3
 - Steels Pond Hydro
 - Stevens Mill Hydro
 - Sugar River Hydro
 - Timco
 - Webster Lake Hydro
 - WES Concord (Concord Regional Waste)
 - Weston Hydro;
- and

WHEREAS, as a condition of their rate orders each producer "agree[d] to appear before this Commission with such documents as may be requested upon reasonable notice, to the extent required by this Commission to fulfill its statutory obligations" (68 NH PUC 531, 544); and

WHEREAS, the instant information is required by the Commission as necessary data in its investigations of issues relating to transmission access and to its statutory obligations under the Energy Policy Act of 1992; it is therefore

ORDERED, that representatives of the above QFs shall be ordered to appear at the Commission to show cause why their long term rate orders should not be rescinded for failure to comply with the conditions of said rate orders unless a written explanation is provided by Friday, June 11, 1993.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of May, 1993.

=====

NH.PUC*05/26/93*[75093]*78 NH PUC 273*MCI Telecommunications Corporation

[Go to End of 75093]

Re MCI Telecommunications Corporation

DE 93-087
Order No. 20,855
78 NH PUC 273

New Hampshire Public Utilities Commission

May 26, 1993

Order *Nisi* Approving the Additional Classification of Operator Service Calls.

BY THE COMMISSION:

ORDER

On May 5, 1993, MCI Telecommunications Corporation (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking an additional

[Page 273](#)

classification of operator service calls to its NHPUC Tariff No. 1 - Intrastate Telecommunications Service. WHEREAS, MCI proposed the filing become effective June 5, 1993; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than June 22, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, MCI cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than June 7, 1993 and is to be documented by affidavit filed with this office on or before June 22, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of MCI Tariff PUC No. 1 are approved:

Eighteenth Revised Page 1

Nineth Revised Page 2
Second Revised Page 26
Second Revised Page 26.1
Second Revised Page 26.2
Original Page 26.3

and it is

FURTHER ORDERED, that MCI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of May, 1993.

=====

NH.PUC*05/28/93*[75094]*78 NH PUC 274*Public Service Company of New Hampshire

[Go to End of 75094]

Re Public Service Company of New Hampshire

DR 92-077
Order No. 20,856
78 NH PUC 274

New Hampshire Public Utilities Commission

May 28, 1993

Nuclear Decommissioning Charge Order Approving Nuclear Decommissioning Charge Effective June 1, 1993 through May 31, 1994.

BY THE COMMISSION:

ORDER

Public Service Company of New Hampshire (PSNH), on April 30, 1993 filed with the New Hampshire Public Utilities Commission (Commission) a request for establishment of a nuclear decommissioning charge effective June 1, 1993 through May 31, 1994 in the amount of \$0.00012 per kilowatt hour (KWH), which is the amount presently authorized by the Commission; and

WHEREAS, PSNH, pursuant to its understanding of the Rate Agreement, had originally sought to include the increase in nuclear decommissioning costs authorized by the Nuclear Decommissioning Finance Committee with the base rates, subject to the annual 5.5% increases

during the Fixed Rate Period, which position the Commission Staff and the Office of Consumer Advocate opposed; and

WHEREAS, on May 6, 1993 a Memorandum of Understanding was executed between PSNH, Northeast Utilities Service Company (NUSCO), North Atlantic Energy Corporation (NAEC) and the State of New Hampshire which, *inter alia*, agreed that "any adjustments to the level of PSNH's liability under the Seabrook Power Contract to reimburse NAEC for payments to the Nuclear Decommissioning fund shall be recovered through adjustments to PSNH's base rates and that such rate adjustments will not be subject to the annual 5.5 percent increases established under the Rate Agreement"; and

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WHEREAS, the terms of the Memorandum of Understanding will be the subject of full litigation in Docket No. DR 93-092; and

WHEREAS, continuation of the approved rate for June 1, 1993 through May 31, 1994 is in the public interest; it is hereby

ORDERED, that continuation of the nuclear decommissioning charge of \$0.00012 per KWH be, and hereby is approved, effective June 1, 1993 through May 31, 1994 unless the Commission orders otherwise in Docket No. DR 93-092.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of May, 1993.

=====

NH.PUC*05/28/93*[75095]*78 NH PUC 275*Public Service Company of New Hampshire

[Go to End of 75095]

Re Public Service Company of New Hampshire

DR 93-092

Order No. 20,857

78 NH PUC 275

New Hampshire Public Utilities Commission

May 28, 1993

Petition for Approval of Temporary Rate Base Adjustments; Order Approving Temporary Rate Base Adjustments Effective June 1, 1993.

BY THE COMMISSION:

ORDER

On May 12, 1993, Public Service Company of New Hampshire (PSNH), in conjunction with Northeast Utilities Service Company, North Atlantic Energy Corporation and the State of New

Hampshire, jointly filed with the New Hampshire Public Utilities Commission (Commission) a request for temporary adjustment to PSNH's base rates, subject to refund, to be effective June 1, 1993.

The temporary adjustment request is part of the joint petition for approval of a Memorandum of Understanding entered into by the petitioners which addresses reduction in the Nuclear Station Property Tax, reimposition of the Franchise Tax, accounting treatments resulting from adoption of SFAS 106 and 109, recovery for certain aspects of PSNH's settlement with the Vermont Electric Generation and Transmission Cooperative, Inc., amendment to the Rate Agreement addressing impact of special discount rates previously approved for James River/Wausau Paper, amendment to the Rate Agreement addressing treatment of nuclear decommissioning costs, and amendment of the Rate Agreement to eliminate the effect of unintended overlap of recovery periods relating to the acquisition premium and the deferral return recovery period.

By Order of Notice dated May 13, 1993, the petition regarding permanent adjustment to base rates shall be fully litigated, beginning with a prehearing conference on June 8, 1993, at which time a procedural schedule will be developed.

The petition requested temporary adjustment to base rates of \$0.00074 per kilowatt hour (KWH), effective June 1, 1993, for a total recovery of \$4,831,000.

Upon review of the record of the May 26, 1993 hearing on the temporary rate adjustment request, which focused primarily on the collection of the Franchise Tax which will be offset by the reduction of the Nuclear Station Property Tax liability that flows through FPPAC and the decrease in base rates to offset the FPPAC charge for SFAS 106 collection; it is hereby

ORDERED, that we find the temporary adjustment to base rates of \$0.00074 per KWH, effective June 1, 1993 and subject to refund, to be just and reasonable and in the public interest; and it is

FURTHER ORDERED, that said increase shall be applied equally on a per KWH basis to all customers; and it is

FURTHER ORDERED, that PSNH shall file tariffs in compliance with this order no later than June 7, 1993; and it is

FURTHER ORDERED, that a report shall be issued which more fully delineates the positions of the parties and Staff and our determinations herein.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of May, 1993.

=====

NH.PUC*05/28/93*[75096]*78 NH PUC 276*Public Service Company of New Hampshire

[Go to End of 75096]

Re Public Service Company of New Hampshire

DR 93-023
Order No. 20,858
78 NH PUC 276

New Hampshire Public Utilities Commission

May 28, 1993

Fuel and Purchased Power Adjustment Clause Order Setting FPPAC Rate for June 1, 1993 through November 30, 1993.

BY THE COMMISSION:

ORDER

Public Service Company of New Hampshire (PSNH), on March 22, 1993 filed with the New Hampshire Public Utilities Commission (Commission) a request for establishment of a rate under the Fuel and Purchased Power Adjustment Clause (FPPAC) for the period June 1, 1993 through November 30, 1993 in the amount of \$0.00335 per kilowatt hour (KWH). This request was subsequently amended on May 7, 1993 to \$0.00122 per KWH and further amended on May 17, 1993 to \$0.00124 per KWH.

Upon review of the record of evidentiary hearings on the amended FPPAC request from May 11 through 13, 1993, the briefs filed on May 25, 1993 by PSNH, the Office of Consumer Advocate (OCA) and the Commission Staff (Staff), and the subsequent amendment to the FPPAC request, it is hereby

ORDERED, that we find the operations of Seabrook Station and the performance of North Atlantic Energy Service Corporation (NAESCO) during the period under review to be noteworthy and commend all involved on attaining a capacity factor of 97.1% during its second operating cycle; and it is

FURTHER ORDERED, that we find management imprudence to warrant disallowance of \$102,410, the cost of replacement purchased power needed as a result of management's failure to properly train personnel and develop adequate work documents regarding emergency feedwater turbine steam supply valves, resulting in a technician improperly resetting the actuators, thereby extending the scheduled refueling outage; and it is

FURTHER ORDERED, that we find management imprudence to warrant disallowance of \$293,000, the cost of replacement purchased power needed as a result of inadequate training and communications and lack of procedural guidance for feedwater system operations which led to a technician's failure to un-isolate condensate heaters; and it is

FURTHER ORDERED, that we find management imprudence to warrant disallowance of \$150, the cost of replacement purchased power needed as a result of management's failure to adequately review a procedural change regarding the feedwater system; and it is

FURTHER ORDERED, that we do not find management imprudence in regard to the outage caused by technicians' actions leading to a broken nitrogen line on the latching tool; and it is

FURTHER ORDERED, that we do not find management imprudence in regards to the outage caused by a technician installing a strain gauge on the wrong valve during a charging system restoration; and it is

FURTHER ORDERED, that we do not accept the Staff's recommendation that any disallowance be shared equally between PSNH and its ratepayers through a 50% reduction of the disallowance, as we see no basis in the record of this proceeding for such a sharing of costs; and it is

FURTHER ORDERED, that a total of \$395,560 will be disallowed as a result of management imprudence, which in turn reduces the FPPAC rate to \$0.00110 per KWH; and it is

FURTHER ORDERED, that the confidentiality of self-critical documents appears to be necessary to ensure full disclosure of events leading to plant shutdowns and to further ensure accurate reflection of critical data in the OPRRs; and it is

FURTHER ORDERED, that while we do not find a basis on which to disclose confidential self-critical documents to the OCA, in consideration of the OCA's "alternative" request for relief on this matter, we direct PSNH, the OCA and the Staff to explore ways in which sufficient detail could be provided for meaningful review of planned refueling outages; and it is

FURTHER ORDERED, that we are concerned with PSNH's argument that we will create a disincentive for establishing an aggressive refueling outage schedule if we disallow replacement power costs that arise from management

Page 276

imprudence during the refueling outage which causes an extension of the outage. We are also concerned that NAESCO establishes the outage schedule and if the schedule is not exceeded, no OPRR is done, even if management imprudence occurred. In directing the parties and Staff as we have in the prior ordered paragraph, therefore, we are also directing them to establish an appropriate mechanism for meaningful review of NUSCO's planned outages in general, regardless of whether the schedule was met. We believe this will eliminate any disincentive to establish an aggressive planned outage schedule and provide for consistent and meaningful review of management actions during the outage; and it is

FURTHER ORDERED, that, based on the record before us, we do not accept the Staff's arguments regarding PSNH's interpretation of the Sharing Agreement and the Rate Agreement and, therefore, cannot conclude that NUSCO and PSNH were acting improperly in their treatment or designation of capacity and energy transactions; and it is

FURTHER ORDERED, that we will not at this time open a docket regarding Small Power Producer (SPP) long term rates or convert those rates to temporary rates, but will set a deadline of September 1, 1993, by which time the parties to the SPP negotiations shall produce results or abandon negotiations, and that PSNH shall notify all parties to the SPP negotiations of this deadline; and it is

FURTHER ORDERED, that if by September 1, 1993 there has been no resolution of the SPP rate dispute between the parties, the Commission shall take appropriate action; and it is

FURTHER ORDERED, that PSNH's proposed short-term rates for small power producers as delineated in Exhibit 14 are approved; and it is

FURTHER ORDERED, that the FPPAC rate of \$0.00110 shall be effective June 1, 1993 through November 30, 1993 and that PSNH shall file compliance tariffs in accordance with this order no later than June 7, 1993; and it is

FURTHER ORDERED, that a report shall be issued which more fully delineates the positions of the parties and Staff and our determinations herein.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of May, 1993.

=====

NH.PUC*06/01/93*[75097]*78 NH PUC 277*Public Service Company of New Hampshire

[Go to End of 75097]

Re Public Service Company of New Hampshire

DR 93-086

Order No. 20,859

78 NH PUC 277

New Hampshire Public Utilities Commission

June 1, 1993

Elderly Customer Discount.

BY THE COMMISSION:

ORDER

On May 4, 1993, Public Service Company of New Hampshire (PSNH) filed in accordance with the Commission's tariff Filing Rules the following revised tariff pages:

NHPUC No. 33 - Electricity

Public Service Company of New Hampshire

2nd Revised Page 23 1st Revised Page 29

Effective: June 1, 1993; and

WHEREAS, the revised tariff pages modify the date upon which the Elderly Customer Discount applied to Residential Service Rate D and Residential Service Optional Time-of-Day Rate D- OTOD will be reduced from ten percent (10%) to eight percent (8%); and

WHEREAS, the discount was scheduled to change on June 1, 1993 as provided for in the Rate Design Phase-In Stipulation that was approved by the Commission in Order No. 20,504

issued June 8, 1992, in docket DR 91-001; and

WHEREAS, PSNH states that the reason for delaying the reduction to the discount from 10% to 8% by one year is to avoid any significant impacts on customers' bills; and

WHEREAS, on May 24, 1993, PSNH filed a letter in accordance with the directive of the Commission from its May 17, 1993 weekly meeting that requested concurrence to PSNH's proposal by the signatories to the Rate Phase-In Stipulation; and

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WHEREAS, all signatories agree to PSNH's proposal to delay the reduction to the elderly customer discount albeit Staff further conditions its agreement by requiring that any reduction in revenue resulting from the delayed discount should not be passed on to other ratepayers; and

WHEREAS, PSNH agrees to Staff's condition; and

WHEREAS, the Commission finds, subject to Staff's condition, PSNH's proposal to keep the discount at its present level for one additional year to be in the public good; it is hereby

ORDERED, that the following tariff pages:

NHPUC No. 33 - Electricity
Public Service Company of New Hampshire
2nd Revised Page 23 1st Revised Page 29

are approved effective June 1, 1993; and it is

FURTHER ORDERED, that PSNH submit to the Commission a study comparing elderly customer usage with that of other residential rate customers by the end of 1993 or the time of its next rate design filing, whichever occurs first; and it is

FURTHER ORDERED, that PSNH file compliance tariff pages in accordance with this order within 14 days from the issuance date of this order.

By order of the New Hampshire Public Utilities Commission this first day of June, 1993.

=====

NH.PUC*06/02/93*[75098]*78 NH PUC 278*Concord Electric Company

[Go to End of 75098]

Re Concord Electric Company

DR 93-074
Order No. 20,860
78 NH PUC 278

New Hampshire Public Utilities Commission

June 2, 1993

Amended and Restated Load Shifting Agreement with Elektrisola.

BY THE COMMISSION:

ORDER

On April 15, 1993, UNITIL Service Corp. filed on behalf of Concord Electric Company (Concord), an Amended and Restated Load Shifting Agreement (Amended Agreement) between Concord Electric Company and Elektrisola, Inc., a large retail customer of Concord who has the ability to provide capacity resources to UNITIL Power Corp., Concord's wholesale power supply affiliate, by shifting a portion of its load from the peak period to the off-peak period; and

WHEREAS, the special contract between Elektrisola and Concord was originally filed with the Commission on October 10, 1989, and approved by Commission Order No. 19,586 in DE 89-124 on October 30, 1989; and

WHEREAS, the original special contract was later amended and approved by the Commission in DR 90-056 by Order No. 19,775 on April 2, 1990; and

WHEREAS, the Amended Agreement filed on April 15th is only intended to change the beginning of the off-peak hours on weekdays from 9:00 p.m. to 10:00 p.m., the ending time remaining at 7:00 a.m.; and

WHEREAS, the change in the start of the off-peak hour reflects the change in the start of the off-peak period in the Large General Service Time-of-Use G1 Rate Class, which became effective January 1, 1993 as part of the rate design changes approved by the Commission in DR 91-065, Report and Order No. 20,704 (December 18, 1992); and

WHEREAS, the change to the Amended Agreement is in the public good; it is hereby

ORDERED *Nisi*, that the Amended Agreement filed April 15, 1993, by UNITIL Service Corp. on behalf of Concord Electric Company, is approved; and it is

FURTHER ORDERED, that UNITIL provide a report to the Commission by June 1 of

Page 278

each year detailing the value the Amended Agreement brings to UNITIL's long-term resource plan, the amount of load shifted from the peak to off-peak period, the payments made to Elektrisola and the number of times, if any, and duration that Elektrisola's on- peak period demand did not conform with the reliability criteria of the contract; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than June 4, 1993, said publication to be documented by affidavit filed with this office on or before June 21, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than June 21, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective June 25, 1993 unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this second day of June, 1993.

=====

NH.PUC*06/03/93*[75099]*78 NH PUC 279*Linda Gauvin v. Southern New Hampshire Water Company, Inc.

[Go to End of 75099]

Linda Gauvin v. Southern New Hampshire Water Company, Inc.

DC 93-058

Order No. 20,861

78 NH PUC 279

New Hampshire Public Utilities Commission

June 3, 1993

Report and Order Delineating Utility's Responsibility on Customer Premises.

Appearances: Linda Gauvin, *pro se*, and Larry S. Eckhaus, Esq. on behalf of Southern New Hampshire Water Company, Inc.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

In the late fall of 1992, Linda Gauvin, a customer on Southern New Hampshire Water Company, Inc.'s (Southern or the Company) satellite system in a development commonly known as Beaver Hollow, contacted the New Hampshire Public Utilities Commission (Commission) relative to a dispute between herself and the Company. The dispute centered on responsibility for repairs to a damaged portion of the service connection located on Ms. Gauvin's property, i.e., from the curb (Ms. Gauvin's property line) to the meterhorn (the meter attached to her home).

Because the construction season was quickly coming to an end, the Commission Staff requested that Southern make the necessary repairs to ensure service to Ms. Gauvin during the winter months at a cost not to exceed \$500, with the financial responsibility for these repairs and all future repairs to be determined at a subsequent time. Both the Company and Ms. Gauvin agreed to this arrangement.

In the following months, the Staff of the Commission attempted to arbitrate a resolution of the dispute to no avail.

Consequently, on March 18, 1993, Ms. Gauvin filed with the Commission a request for a hearing pursuant to RSA 365:4. The Commission heard evidence on Ms. Gauvin's complaint on

April 13, 1993.

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II. BACKGROUND

Beaver Hollow was acquired by Southern as part of its acquisition of the so-called Policy Systems in 1985. The Policy Systems were a series of developer-built water distribution systems constructed to service residential developments.

III. POSITIONS OF THE PARTIES

A. Ms. Gauvin

Ms. Gauvin takes the position that the developer of the Beaver Hollow subdivision granted easements to Southern's predecessor in interest, Policy Water Systems, Inc. (Policy), including an easement over her property. The easement was to install and maintain a community water system and, therefore, Ms. Gauvin argues, Southern is also responsible for the "maintenance" of the service connection (line) on her property.

In the alternative, Ms. Gauvin contends that the fact that Southern has, on one previous occasion, made a repair to this service line at no cost to her establishes a continuing financial responsibility on the Company to repair the service line.

B. The Company

The Company takes the position that its tariff and that of its predecessor in interest, on file with and approved by the Commission, specifically state that the customer is responsible for the maintenance and repair of all service connections from the curb to the meter. Thus, they are not responsible for the maintenance and repair of the service connection on Ms. Gauvin's property.

IV. COMMISSION ANALYSIS

As is apparent from the position of the parties, the issue before the Commission is who bears the financial responsibility for the repair and maintenance of the service connection (line) on Ms. Gauvin's property.

Initially, we note that a review of Commission files involving the sale and purchase of the Beaver Hollow water distribution system reveals that the easement granted to Policy Water Systems, Inc. across Ms. Gauvin's land was never conveyed to Southern when they acquired the system from Policy. Therefore, there is no basis to rely on the original easement in establishing the financial responsibility of the Company to repair the service line.

Furthermore, the easement relied upon by Ms. Gauvin merely provides Southern's predecessor in interest the right to construct and maintain facilities within the easement. We do not believe that such an easement, which conveys the right to carry out certain functions, also infers an obligation to do so, especially under the circumstances herein. To find otherwise would be to impose a significant unanticipated financial obligation on the Company with regard to similar problems encountered by other customers.

As was discussed above, the water distribution system was constructed by Southern's predecessor in interest, Policy, a franchised public water utility at the time, for a developer.

Thus, the easement from the developer to Policy necessarily involved the installation (construction) of the customer services. However, subsequent to the installation of the water distribution system, Policy applied for and was granted a franchise to provide water service in Beaver Hollow. As part of that proceeding Policy filed a tariff with the Commission, delineating the terms and conditions for service in the franchise area. The tariff, which was approved by the Commission, specifically states that the customer is responsible for the customer service line from the curb to the meterhorn.

This tariff provision clarifies that the intent of the easement was to provide the water utility with the right to construct and maintain the customer service line in the first instance, i.e., for the developer to provide water service to the home. Furthermore, any contractual provision that attempted to obligate a utility to maintain a customer service line in perpetuity would be void *ab initio* because it would violate the Commission's rules and regulations, and, therefore, public policy. *See*, N.H. Admin. R., Puc 602.01 (f), (g); 606.02.

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In regard to Ms. Gauvin's alternative contention that the Company's act of repairing the service line on a previous occasion at no cost to her establishes a continuing financial responsibility on the Company to make such repairs, we can find no basis in law or equity for such a conclusion, absent negligence on the part of the Company in making the first repair that resulted in the necessity of the repair in dispute. In light of the fact that there was neither an allegation of negligence nor any evidence thereof raised by Ms. Gauvin, the Company bears no financial responsibility for the repairs in dispute based on this theory of recovery.

Based on this analysis, we find Ms. Gauvin responsible for the repairs to her service line made by the Company in the fall of 1992, as per the agreement between Ms. Gauvin and the Company, in the amount of \$500, which is actually less than it cost the Company to effectuate the repair.¹⁽²⁹⁾

Our order will issue accordingly.

Concurring: June 3, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby ORDERED, that Southern New Hampshire Water Company, Inc. is not responsible for the repair and maintenance to the service line located on the property of Linda Gauvin; and it is FURTHER ORDERED, that Linda Gauvin reimburse the Company \$500 for the repairs to her service line.

By order of the New Hampshire Public Utilities Commission this third day of June, 1993.

FOOTNOTES

¹ Given the testimony in this case relative to the expectation of recurring problems with the

customer service line, we would encourage the Company to work with Ms. Gauvin in attempting to find an alternative to the current situation.

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NH.PUC*06/03/93*[75100]*78 NH PUC 281*EnergyNorth Natural Gas, Inc.

[Go to End of 75100]

Re EnergyNorth Natural Gas, Inc.

DR 90-183

Order No. 20,862

78 NH PUC 281

New Hampshire Public Utilities Commission

June 3, 1993

Order *NISI* Approving Revised Tariff Pages.

BY THE COMMISSION:

ORDER

On April 30, 1993 EnergyNorth Natural Gas, Inc. (ENGI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking approval of a revised tariff page for standby service which was originally approved in DR 90-183. Certain language changes to the tariff pages involving the general commercial rate, the commercial heating rate, and the general industrial rate are proposed as well. WHEREAS, the proposed revised tariff page for standby service more closely reflects marginal gas costs; and

WHEREAS, the proposed changes in the tariff language for the general commercial rate, the commercial heating rate, and the general industrial rate reflect new eligibility criteria consistent with and result from the proposed revised standby service rate; and

WHEREAS, Staff has reviewed these changes and believes that they are in the public interest; and

WHEREAS, the Office of the Consumer Advocate has reviewed these changes and offers no objections; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the following tariff pages of ENGI Tariff PUC No. 1 - GAS SERVICES are approved:

Supplement No. 2, First Revised Page 3

Supplement No. 2, First Revised Page 4

Supplement No. 2, First Revised Page 5

Supplement No. 1, Second Revised Page 9;

and it is

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FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than June 25, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Administrative Rules Puc 203.01, ENGI cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than June 11, 1993 and is to be documented by affidavit filed with this office on or before June 28, 1993; and it is FURTHER ORDERED, that ENGI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this third day of June, 1993.

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NH.PUC*06/08/93*[75101]*78 NH PUC 282*Investigation into 1992 Energy Policy Act Requirements

[Go to End of 75101]

Re Investigation into 1992 Energy Policy Act Requirements

DR 93-071

Order No. 20,863

78 NH PUC 282

New Hampshire Public Utilities Commission

June 8, 1993

Order Granting in Part and Denying in Part Motion for Extension of Time to File Objections.

BY THE COMMISSION:

ORDER

Bristol Energy Corporation, Bio-Energy Corporation, Bridgewater Power Company, L.P., Hemphill Power and Light Company, Pinetree Power, Inc., Pinetree Power - Tamworth, Inc., TIMCO, Inc. and Whitefield Power and Light Company (Biomass Group), having filed on June

4, 1993, a request for an extension of time to June 25, 1993, in which to file any objections the Biomass Group may have to data requests propounded by the Staff of the Public Utilities Commission (Staff); and

WHEREAS, the Biomass Group received said data requests on June 3, 1993, and, pursuant to N.H. Admin. Rule Puc 204.06, has 6 days, until June 8, 1993, in which to file any objections to said data requests; and

WHEREAS, the only parties to object to the Biomass request for an extension of time were the Public Service Company of New Hampshire (PSNH) and the Staff, both of whom expressed concerns that granting the request for an extension could preclude the Commission from issuing a decision in this docket by the October 24, 1993 time frame required under the Energy Policy Act of 1992; and

WHEREAS, the Commission, on June 7, 1993, convened a hearing on the merits of the Biomass Group's request for a waiver at which the Biomass Group and the two parties who objected to the request, Staff and PSNH, were present; and

WHEREAS, at said hearing, the parties agreed to a proposal from the Commission to allow the Biomass Group an extension of time to June 11, 1993 to file objections while still requiring that all data responses required by the Commission be filed by the scheduled due date of June 25, 1993; it is hereby

ORDERED, that the request for an extension of time to file objections by the Biomass Group is granted in part and denied in part, with the following procedural schedule to apply:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

June 11, 1993 Biomass Group shall file any objections it has to Staff data requests

June 17, 1993 Staff and PSNH shall file responses
12:00 NOON to any objections filed by the Biomass Group

June 21, 1993 The Commission shall issue a decision on any filed objections and responses thereto

June 25, 1993 The Biomass Group shall file all data responses required by the Commission

By order of the New Hampshire Public Utilities Commission this eighth day of June, 1993.

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NH.PUC*06/10/93*[75102]*78 NH PUC 283*Generic Investigation into Intralata Toll Competition Access Rates

[Go to End of 75102]

Re Generic Investigation into Intralata Toll Competition Access Rates

DE 90-002
Order No. 20,864

78 NH PUC 283

New Hampshire Public Utilities Commission

June 10, 1993

Order Conditionally Accepting the Stipulation of the Parties.

Appearances: As previously noted.

BY THE COMMISSION:

REPORT

A. INTRODUCTION

After months of litigation and extensive negotiations, the parties have entered a Stipulation and Agreement (Stipulation) to resolve the disputed issues in this proceeding, including the fundamental issue of the level and structure of access charges for intrastate toll competition in New Hampshire. The Stipulation presents a new regulatory framework for intrastate toll competition to evolve in New Hampshire through a two year experimental period and, if appropriate, into the future. We believe that the Stipulation represents a significant step forward in bringing the benefits of competition to New Hampshire and its ratepayers.

The Commission is also persuaded, however, based on the record to date, that the pace and reduction of access charges contained in the Stipulation are inadequate. To better assure the likelihood that competition will benefit New Hampshire and its ratepayers, we believe that access charges should eventually reach interstate levels over a four year transitional period. In this Order, the Commission reviews the public interest implications of the Stipulation and proposes modifications in the Stipulation which are necessary to protect the public interest. Therefore, we approve the Stipulation subject to certain conditions.

B. PROCEDURAL HISTORY

On December 4, 1987, Long Distance North of New Hampshire, Inc. (LDN) filed a petition for a franchise to operate as a reseller of long distance telephone service in the state of New Hampshire. DE 87-249. On January 4, 1990, AT&T Communications of NH, Inc. (AT&T) filed a petition to provide certain intrastate toll services in New Hampshire. DE 90-002. Shortly thereafter, MCI Telecommunications Corporation of New Hampshire, Inc. (MCI) and Sprint Communications Company of New Hampshire, Inc. (Sprint) filed similar petitions. DE 90-108; DE 90-127. On June 7, 1990, the Commission issued Report and Order No. 19,853 which consolidated the four dockets and established this docket, DE 90-002, as a generic investigation into telecommunications competition.

The parties to this docket are interexchange carriers (IXCs), AT&T, LDN, MCI and Sprint; local exchange companies (LECs), Bretton Woods Telephone Company, Dunbarton Telephone Company, Inc., Granite State Telephone, Inc., Merrimack County Telephone Company, Wilton Telephone Company, Inc., Chichester Telephone Company, Kearsarge Telephone Company, Meriden Telephone Company, Inc., Union Telephone Company, Contel of NH, Inc., d/b/a GTE NH and Contel of Maine, Inc., d/b/a GTE ME and New England Telephone and Telegraph Company (NET or the Company); the Office of Consumer Advocate; the Business and Industry

Association and the Commission Staff Advocates (Staff). Atlantic Connections, Ltd. filed a motion to intervene but

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failed to appear or to participate in the docket other than to offer comments on the Stipulation, despite being served with notices. Dixville Telephone Company was provided notice of this docket but has chosen not to appear or participate.

On January 21, 1991, the Commission issued Order Nos. 20,039, 20,040, 20,041, and 20,042 granting LDN, AT&T, MCI and Sprint, respectively, "interim" authority to provide intrastate toll services and required NET to extend its access tariff to accommodate the approved competitive services. On March 20, 1991, effective March 21, 1991, NET filed interim intrastate access tariffs in compliance with these orders.

On January 17, 1992 the parties filed with the Commission a Stipulation and Agreement (the 1/17/92 Stipulation), which identified the issues to be litigated before the Commission and set other matters for determination in workshops or other proceedings in the future. In addition, the parties stipulated that competitive toll entry should be authorized on a trial basis for two years from the date of NET's permanent access tariff. The 1/17/92 Stipulation was approved by the Commission at its public meeting on January 20, 1992. By order No. 20,528 (July 2, 1992) the form and administration of access settlements was explicitly identified to be addressed in this phase of the proceeding.

By Report and Order No. 20,608 (September 21, 1992), in response to motions filed by the LECs, the Commission designated certain Staff members as Staff Advocates and other Staff members as Decisional Employees, all pursuant to N.H. Admin. Rules, PUC 203.15.

Hearings on the merits commenced September 22, 1992 and continued in October, November and December 1992. After 15 hearing days, the parties renewed their efforts to resolve this phase of the docket. In order to facilitate such negotiations, the Commission granted the parties' request to use hearing dates scheduled for January and February, 1993, for settlement discussions. The Stipulation is a result of those discussions.

C. PUBLIC INTEREST STANDARD

The Commission has carefully analyzed the Stipulation based on our traditional standard of whether the Stipulation will result in rates that are just and reasonable and in the public good. This essentially requires us to strike a balance between the collective interests of the parties and the interests of New Hampshire and its ratepayers.

The Commission regards stipulations and negotiated compromises as desirable and as reasonable options to be considered in the regulatory process. Since the Commission encourages the consideration of settlements, we accord significant deference to stipulations in our public interest analysis. Rather than insisting that any stipulation match the relief that the Commission would have ordered had the matter proceeded to final decision, we will approve stipulated settlements so long as we are satisfied on balance that the settlement promotes the public interest. This is the approach that the Commission has followed in evaluating the Stipulation in this case.

D. DOCKET DR 89-010

In evaluating the Stipulation, the Commission also is guided by its findings in DR 89-010. In that proceeding, the Commission adopted, with modifications, NET's incremental cost study (ICS) as a basis for rate design and addressed NET's proposal to change the form of regulation in New Hampshire from traditional rate of return regulation to incentive price cap regulation.

In DR 89-010, the Commission utilized the results of the ICS to test NET's claim that basic local exchange services have been and continue to be subsidized by toll. *Re New England Telephone and Telegraph Company* (NET), 76 NHPUC 150 at 166-167 (1991); *See also, Re NET*, 76 NHPUC 294 (1991). After lengthy hearings and a careful review of the record evidence, the Commission concluded that NET's claim of subsidy was based on the mistaken and misleading assumption that the non-traffic-sensitive (NTS) costs of the local loop should be assigned exclusively to basic exchange services. *Id.* Assigning these costs exclusively to basic exchange services resulted in an appearance that basic exchange services were priced below their incremental cost and therefore were being subsidized by other services.

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When NTS costs were appropriately allocated among all services utilizing loop facilities, and therefore causing loop costs, including toll, it was clear that basic exchange services were not being subsidized by toll or any other service. Indeed, the Commission found that "...[b]asic exchange services are not only recovering their incremental costs but are also contributing towards common overhead costs." *Id.* at 167.

The Commission also noted NET's testimony that incremental costs of NTS loop approximates its average (or total) costs. Based on this testimony and other record evidence, the Commission found:

Given that NTS loop provisioning represents approximately 95% of the incremental cost of basic exchange service, the commission concludes that pricing basic exchange service at its incremental cost will enable the company to recover the average cost of providing basic exchange service without the need to apply any closing methodology. *Id.*

The record evidence demonstrated NET's provisioning of basic exchange services was not characterized by subadditivity of costs, so that pricing basic exchange services at incremental cost would recover NET's total cost of providing basic exchange services.

The fundamental rate design principle emerging from DR 89-010 is that basic exchange services, which currently are priced above incremental cost, recover for NET not only the total cost of providing basic exchange service, but contribute additional revenues to cover NET's overall revenue requirement.

This recognition of the true revenue-cost relationship of basic exchange services not only dispelled any claim that basic exchange services were being subsidized by toll, but was also fundamental to our analysis of NET's proposal to change the form of regulation for NET in New Hampshire. NET maintained that incentive price cap regulation was necessary to enable NET to respond effectively to changing market conditions in the telecommunications industry. Among other things, the Company claimed that rate rebalancing through price cap regulation would

provide it the opportunity to raise residential rates over time to meet the incremental cost of providing service, while allowing NET to lower intraLATA toll rates to meet competition.

Based on our analysis of NET's ICS, and the proper allocation of NTS costs, we found that residential service is currently priced above incremental cost and therefore is not being subsidized by intrastate toll services. We determined that it was neither necessary nor appropriate to alter the revenue-cost relationship of basic exchange services. The Commission therefore rejected the concept of rate rebalancing under alternative regulation as proposed by NET. Indeed, we concluded that any alternative regulation proposal must sever the link between the monopoly services and competitive services to prevent the possibility of monopoly ratepayers subsidizing NET's competitive activities. *Re NET*, 76 NHPUC 393 at 412 (1991). Consequently, during the DR 91-084 collaborative process on regulatory change which followed DR 89-010, we emphasized that any alternative regulation proposal must "sever the link between monopoly and non-monopoly services." *E.g.*, 1/27/92 Status Conference Hearing at p. 78.

Our analysis in DR 89-010 will continue to guide the Commission on rate design and alternative regulation proposals, particularly where claims are made that anticipated losses in revenues from competitive services pose a threat to current levels of basic exchange rates. Guided by these principles, we turn now to the public interest implications of the Stipulation.

E. REVIEW OF PROVISIONS OF STIPULATION

1. Ratepayer Interests

The Stipulation contains two primary provisions relating to ratepayer interests during the two year competitive experiment. First, a price ceiling for NET's toll services is established at current rates as of the date of the approval of the Stipulation. Second, NET has agreed not to

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initiate a request for an increase in its existing basic exchange rates sooner than January 1, 1995, and has also agreed that no such increase will become effective prior to July 1, 1995. The only exception is that NET is authorized to apply to the Commission to seek to pass-through to ratepayers exogenous cost changes beyond its control. The Commission accepts both of these terms, but for the reasons discussed below believes neither is necessary given current and anticipated market conditions.

Toll competition should effectively reduce toll prices well below current levels. Thus, we do not believe that ratepayers realistically face the prospect of an increase in toll rates even absent the ceiling agreed to by the parties. Indeed, should rates remain at current levels, the competitive experiment will have failed and the Commission will consider appropriate steps to inject into the intrastate toll market effective incentives to assure the emergence of real price competition. Nonetheless, since the stipulated toll ceiling offers a degree of protection from rate increases, and has been agreed to by the parties, we have no difficulty approving this provision.

For similar reasons, the Commission will accept NET's two year commitment not to seek basic exchange rate increases, despite our view that any need to increase basic exchange rates is not likely during the two year period of the competitive experiment. While the parties have claimed that this commitment represents an important benefit of the Stipulation to protect basic

ratepayers from having to offset NET revenue losses resulting from competition, we believe that such claims are overstated for several reasons.

First, as we noted in our discussion of Docket 89-010, basic exchange rates in New Hampshire recover the costs of providing such services and contribute additional revenues for NET's overall revenue requirement. We know of no economic trends or technological developments that would cause these relationships to change during the next two years. Therefore, we believe it highly unlikely that NET could justify seeking any increase in basic exchange rates for the next two years. Basic exchange ratepayers in New Hampshire appear to be protected from rate increases as a result of economic facts and not through any compromise of the parties and Staff in this proceeding.

Second, as the Commission made clear in DR 89-010 and DR 91-084, we are disinclined to approve rate designs which "link" the outcomes of competition with increases in basic exchange rates in connection with alternative regulation, such as the new regulatory framework for toll services established by the Stipulation.

Third, given the uncertainties of competition, the uncertainties of national and State economic conditions, the uncertainties of stimulation and other forms of market growth, and other similar considerations, it is simply impossible to predict the impact of competition on NET's revenues. Therefore, even were the Commission to permit NET to rebalance basic exchange rates to recover revenue losses from toll, we have no way of determining until the competitive experiment is concluded whether such losses will in fact occur to any significant degree prior to July 1, 1995.

The claimed benefits of NET's stipulated commitment not to seek basic exchange rate increases is further diminished by the fact this commitment is not absolute. The Stipulation provides NET with the authority to apply to the Commission during the two year period to recover exogenous cost changes through increased rates for regulated intrastate services, including basic exchange rates. The Stipulation contemplates Commission approval of the specified exogenous cost changes so long as such changes are beyond NET's control. Although we anticipate that such exogenous cost changes will not be significant, nonetheless, as a result of the exogenous cost provisions of the Stipulation, ratepayers, including basic exchange ratepayers, face effective rate increases they would not otherwise incur. We retain complete authority to reject or accept any such application, and to determine which services shall face rate increases to recover these costs.

The Commission recognizes the intent of the parties to protect basic exchange ratepayers from rate increases. We also recognize that other states have permitted rate rebalancing ancillary to toll competition. In New Hamp-

shire, however, unlike those other states, basic exchange services not only fully recover their costs, but also provide additional revenues to assist NET in meeting its revenue requirement. Thus, rate rebalancing (at least in the manner contemplated by the Stipulation) is neither appropriate nor necessary in New Hampshire.

For these reasons, while we agree that New Hampshire's basic exchange ratepayers are

effectively protected from rate increases for the next two years, we do not believe that this benefit flows from the Stipulation. As we have indicated, since basic exchange rates fully recover the costs of providing such services and provide additional revenues to recover NET's joint and common costs of providing other services, the likelihood of any increase in basic exchange rates over the two years of the competitive experiment is remote. Nonetheless, the Commission appreciates any efforts to protect monopoly ratepayers and despite our view that this provision is unnecessary, we accept it as part of the overall settlement of the parties.

The Commission also approves the exogenous cost change exception to NET's commitment on basic rates. We are familiar, of course, with the concept of exogenous cost changes. An automatic pass-through of exogenous cost changes is a common feature of alternative regulation schemes adopted in other jurisdictions and was included as part of NET's alternative regulation proposal in Docket 89-010. However, the testimony offered at the Stipulation hearing concerning the intent of the parties confirmed our understanding that this Stipulation does not provide for an automatic pass-through, but rather leaves the Commission with the authority to approve or disapprove any pass-through of exogenous costs and to determine how those costs will be recovered. We will therefore approve the exogenous cost exception.

2. NET Protection

The Stipulation provides NET with broad flexibility to compete in the intrastate toll marketplace. Within the wide range of the Stipulation's price floors and price ceilings for toll services, NET is given broad and virtually unfettered discretion to set or change at any time toll rates to whatever level it deems appropriate to respond to competition. Similarly, the Stipulation provides NET authority to revise other terms and conditions of existing toll services and to introduce new intraLATA toll services, including new optional toll calling plans, with an expedited 30 day Commission approval process. The Stipulation also adds to NET's existing contracting flexibility to enable it to compete more effectively for long term contracts for intrastate toll services.

The Commission believes that the additional competitive flexibility provided to NET in the Stipulation, which include significant departures from existing regulatory requirements in New Hampshire, is a necessary predicate for the introduction of effective intraLATA toll competition in New Hampshire. NET must be provided with a fair opportunity to compete with other toll providers if New Hampshire and its ratepayers are to truly reap the benefits of competition through lower prices and new and innovative services. The Stipulation provides NET with the flexibility in pricing and the ability to introduce new services or revise existing services to enable it to be an aggressive and innovative competitor.

An effectively competitive marketplace is totally at odds with any notion that NET's total revenues can be "guaranteed" to remain at any particular level. The Commission must therefore assure NET the opportunity to compete effectively with other toll providers. We are satisfied that the Stipulation provides NET with the flexibility and opportunity to be a viable, efficient and effective competitor in the provision of toll services in New Hampshire.

The Commission also believes that NET has, or should have, implemented the necessary structural and organizational changes to respond effectively to competition, given the lengthy period that the Company has had to plan for the arrival of competition — from at least December

1987 when LDN applied for authority to provide long distance services in New Hampshire. We find, therefore, that the provisions of the Stipulation providing NET with additional pricing, service offering, and contracting flexibility clearly promote the public interest.

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The Stipulation also affords NET a degree of earnings protection since it precludes the Commission from initiating a show cause order sooner than January 1, 1995 as to NET's earning level or cost of capital and precludes the Commission from implementing any show cause as to these issues prior to July 1, 1995. The Stipulation thereby effectively precludes the Commission from undertaking a proceeding either to determine whether the Company's earnings exceed its authorized rate of return or to determine whether NET's current authorized overall rate of return of 11.25% is appropriate.

The Staff has indicated that NET's earnings in 1992 were close to and within authorized limits and did not anticipate any significant increases in NET's level of earnings over the next two years with competition for intrastate toll services expected to become more intense. Therefore, we do not anticipate that the provision limiting the Commission's ability to initiate a show cause order as to NET's earnings will harm ratepayers.

NET's current authorized overall rate of return of 11.25% was established by stipulated agreement between NET and Staff in 1990 based on a 1988 test year. Although the Commission recently has set lower authorized returns on equity for other LECs operating in New Hampshire, and has approved long term debt refinancing at lower rates for NET, we have no evidence in this docket that NET's authorized return is inappropriate given current market conditions and risks. For these reasons, we will accept these NET earning protection provisions as part of the overall stipulated settlement.

NET also will receive additional protections as a result of the Stipulation's creation of a special fund, known as the Local Ratepayer Protection Mechanism (LRPM), to compensate LECs to some degree for revenue shortfalls resulting from competition. Our public interest analysis of the LRPM, including NET's participation, is contained in a later section of this Order.

3. IXC Protection

The Stipulation also goes far to protect the continuing competitive vitality of the IXCs by imputing access charges to LEC toll rates. Access charge imputation prevents a LEC from either imposing a price squeeze against competing toll providers or subsidizing LEC toll services from monopoly service revenues. We reiterate our views on imputation from DR 89-010. As we explained in that proceeding, since the LECs remain bottleneck providers of local exchange and carrier access services, and since access is a necessary component of toll services, the Commission believes it appropriate to safeguard competition by foreclosing LEC ability to price toll services at or below the cost of access services charged to competing toll providers. *Re NET*, 76 NHPUC 150 at 171 (1991). Further, the Commission believes that imputation of access charges will forestall any improper subsidy of intraLATA toll service at the expense of other services, limit inefficient use of toll facilities and limit the uneconomic bypass of local exchange facilities. *Id.* In sum, the Commission continues to believe that imputation helps to ensure the development of effective intraLATA telecommunications competition. *Id.*

The parties have thoughtfully constructed an imputation system that protects the IXCs from an anticompetitive price squeeze, yet permits NET sufficient pricing flexibility to compete effectively. The Stipulation requires NET to price its toll services at a rate that will recover for each MTS (message telecommunications service) and 800 toll segment an average retail revenue per minute (ARPM) which exceeds the access rate per minute. The Stipulation establishes an average NET price floor for each segment based on the imputation of NET's access rates for the anticipated mix of switched and special access used by customers in that segment, plus a "negotiated add on" to cover NET's non-access costs of providing toll. While the market segment averaging approach creates some opportunities for a price squeeze at the level of an individual customer simply because of the averaging process, it effectively precludes a squeeze across each of the identified market segments. We find that the Stipulation's imputation rules protect competition and are in the public interest.

We do have concerns about the potential competitive impact of the imputation formula in MTS Segment B (customers whose monthly

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volume of outbound intrastate minutes of usage from a customer location is between 1,001 and 5000). The imputed price floor for MTS B is based on the assumption that the relevant form of terminating access is 100% switched, and the relevant form of originating access is 75% switched and 25% special access. However, the range of customers in MTS B includes both, at the low end, a relatively large number of small businesses which will rely almost entirely on services using switched access at both the originating and terminating end of an intraLATA toll call, and at the high end, a number of somewhat larger businesses which will rely almost exclusively on services using special access at one end of the call.

The averaging of these distinct customer groups under MTS B creates opportunities for competitive abuse since the assumed mix of switched and special access for imputation purposes is not reflective of the fact that many customers within the segment rely exclusively on switched access. For instance, NET could discount its prices below the floor (below access) for special access customers and yet meet the segment-wide APRM by discounting little, if at all, for switched access customers. NET could also discount below access for the switched customers and yet meet the segment-wide ARPM by discounting little, if at all, for special access customers. In either situation, competing toll carriers would be subject to a price squeeze in attempting to meet NET's prices for particular groups of customers within the MTS B segment.

While it is true that NET's ability to price below the access/negotiated add-on floor for any particular customer or group of customers and still meet the segment-wide ARPM is inherent in any averaging process, the concern is particularly acute for MTS B since it mixes two distinct classes of customers, some of whom will be entirely dependent on switched access services, and others of whom will be able to use special access services.

During the hearings on the Stipulation, the parties explained that the MTS B issue was carefully considered during the negotiation process and that the mixing of distinct customer classes was designed to promote fairness by allowing NET to compete for special access customers within this segment. Due to NET's inability to provide interLATA toll services under

the Modified Final Judgment, the IXC's have a significant competitive advantage at MTS B's upper end because of their ability to combine interstate and intrastate traffic to qualify a particular customer for special access. May 4, 1993 Hearing, pp.97-113.

The Commission appreciates the candor of the parties, and in particular AT&T, in explaining the "dilemma of MTS-B." May 4, 1993 Hearing, p. 113. We are satisfied that the stipulated resolution of this dilemma represents a fair compromise to protect and promote competition between NET and the IXC's and is in the public interest. Given our concerns about the potential for anticompetitive effects, we will direct our Staff to monitor MTS segment B for any price squeeze effects during the two years of the experiment. Proper mechanisms will be initiated to facilitate the Staff's monitoring effort.

Another important benefit to the IXC's provided by the Stipulation is the elimination of current limitations on contracts of more than 30 days duration. Currently, only NET is authorized to employ long term contracts in marketing toll services. The Stipulation effectively provides the IXC's with similar authority. This provision also clearly promotes competition and is in the public interest.

4. Independent Telephone Company (ITC) Protection

The Stipulation creates a transitional fund, LRPM, to ease the ITC's' change from their traditional role as joint toll providers with NET under the current settlement pooling process to becoming access providers. The LRPM will be funded by a surcharge on toll and basic exchange services, but the fund is capped at a level not to exceed one half of one percent of basic exchange and toll revenues. The surcharge will be funded solely by toll services until the funding requirement of LRPM exceeds \$300,000 annually at which point the LRPM will be funded by both toll and basic exchange services. LRPM payments will begin in October 1994 for the ITC's. NET will also be

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eligible to qualify for LRPM payments beginning in October 1996.

The formula for calculating LRPM is designed to help offset to some degree the ITC's (and NET after October 1996) costs of providing regulated intrastate telecommunications services, where those costs exceed revenues from providing regulated intrastate toll and access services, adjusted for a local revenue target per access line. The formula includes annual adjustments in LEC total costs up to a threshold equal to 60% of the percent increase in the Gross Domestic Product Price Index. To the extent that a LEC seeks adjustments above the GDP-PI threshold, the Commission will review for reasonableness the costs sought to be included.

An individual ITC also may file a rate case if it believes that rate increases are justified by increased costs or otherwise. The Commission will review any such filings for reasonableness pursuant to RSA Chapter 378.

Although the LRPM will not result in significant sums given the LRPM cap, it represents a significant departure from traditional rate of return regulation in New Hampshire. The LRPM permits affected LECs automatically to increase rates to pass through to ratepayers increases in costs in the absence of a formal rate case and without regard to current levels of earnings. While

the Commission does not regard traditional rate of return regulation as sacrosanct, we have made clear at least with regard to NET that any form of alternative regulation must break the "linkage" between monopoly and non-monopoly services. The LRPM fails to sever this link. Indeed, LRPM ties basic exchange rate increases to shortfalls in LEC revenues due to increased competition in toll markets. The Commission therefore has a significant concern about NET's participation in LRPM.

Nonetheless, the Commission is prepared to approve the LRPM on a purely transitional basis for the period covered by the Stipulation and only as part of the overall settlement in this proceeding. Although we do not anticipate that the LRPM fund will amount to significant sums or to significant increases in rates given the stipulated cap on the LRPM fund, it does provide a modest amount of protection for the LECs to adjust to competition. On this basis, and in the context of the overall Stipulation, and despite our reservations about NET's participation, the Commission finds that the LRPM is in the public interest.

5. *NET Access Charges*

A fundamental issue in any proceeding relating to the introduction of competition is to establish appropriate access charges that IXC's must pay to the LECs for originating and terminating toll traffic over LEC bottleneck facilities. The cost of access is a crucial element in the overall cost structure of an intraLATA toll provider and, of course, is passed through to customers in toll rates. New Hampshire, with access charges of approximately 20 cents per minute, currently has the second highest access rates in the United States, following only Maine.

In pre-filed testimony in this proceeding, our Staff maintained that NET's current access charges are excessive and should be immediately reduced to the current interstate level of approximately 8 cents in order to maximize the opportunities for competition to emerge in New Hampshire. The IXC's urged a similar result with AT&T recommending a four year transition to reach the interstate level.

The Stipulation establishes a transitional reduction from NET's current rate of approximately 20 cents per minute (for combined originating and terminating) to 12 cents a minute over a four year period. The transition schedule for Non-800 Access Rates is:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

1993 - 16 cents
 1994 - 14 cents
 1995 - 14 cents
 1996 - 12 cents

The parties have structured the transition so that terminating access is immediately reduced from its current level of approximately 10 cents per minute to the current interstate level of 4 cents per minute to remain at that level throughout the four year transition. For originating access, the transition schedule is:

1993!-!12 cents 1994!-!10 cents 1995!-!10 cents 1996!-!8 cents

The Stipulation's transition schedules and structure for access rates have the following

practical consequences. For serving larger business customers, who typically rely on special access for origination and switched access for termination, IXC access charges will immediately be reduced to the current interstate level of 4 cents and remain there for four years. For residential customers and small business customers, who typically rely on switched access for both origination and termination, IXC access charges will be both reduced on a more gradual schedule, and will only be reduced over the same four year period to 12 cents which is still 50% above the current interstate rate (8 cents).

Based on the evidence in this case to date, the Commission believes the Stipulation does not sufficiently reduce current access charges either in terms of the absolute level of the charges or the pace of the reduction. Under the Stipulation's 16 cents per minute access rate for 1993, New Hampshire will only move from its current position of having the second highest access rate in the United States to having the third highest, with only modest improvement in positioning for 1994 and 1995 at 14 cents. At the end of the four year transition, New Hampshire access rates will remain above the majority of states and will remain 50% above interstate levels, assuming contrary to experience that either interstate access charges or other states' intrastate access charges, are not further reduced.

We believe that the proposed reductions are insufficient. Access charges above interstate levels threaten to deprive New Hampshire ratepayers of the reduced toll prices which have characterized competition in the interstate jurisdiction. Access charges should also be set at levels which will enhance New Hampshire's ability to maintain a telecommunications infrastructure that will attract new businesses to the State and will encourage existing businesses to remain here. Moving our access charges from the second highest levels in the nation to the fourth or fifth highest is inconsistent with this goal.

A low-cost, efficient, state of the art telecommunications infrastructure is vital to New Hampshire's economy and its long run ability to create jobs and to compete in a regional, national and international marketplace. Telecommunications infrastructure is particularly important to a state like New Hampshire which depends heavily on its small business and service sector for job creation. Indeed, the service sector accounts for over half of the employment in the State, and small businesses account for virtually all new jobs in New Hampshire.

In the information driven economy of the future, we anticipate that telecommunications costs will be a significant part of the overall expenses of running many businesses. Low cost telecommunications services directly translate into lower operating costs for both large and small firms located in the State and thereby make it more attractive for firms to conduct business in the State. Thus, the availability of low cost telecommunications services is crucial for New Hampshire's efforts to attract and retain industry and jobs. To the extent that carrier access charges are inordinately high, particularly in relation to other states, ratepayers are unlikely to benefit fully from toll competition and New Hampshire's efforts to expand its business base will be compromised.

Based on the testimony to date, we find therefore that the Stipulation's provisions governing the absolute reduction in NET's access charges and the pace of reduction are contrary to the interests of New Hampshire and its ratepayers. The Commission believes it in the public good that access rates for New Hampshire reach interstate levels. In the overall context of the settlement, we are willing to accept a four year transition period for the reduction of access

charges, but we are prepared to accept the access charge schedules for NET, only if the following modifications are adopted: a. (1) Originating Non-800 access:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Year	As Stipulated	As Modified
1993	12 cents	12 cents
1994	10 cents	8 cents
1995	10 cents	4 cents
1996	8 cents	7/1/96 interstate rate

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(2) Terminating Non-800 access:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Year	As Stipulated	As Modified
1993	4 cents	4 cents
1994	4 cents	4 cents
1995	4 cents	4 cents
1996	4 cents	7/1/96 interstate rate

(3) Total Non-800 access:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Year	As Stipulated	As Modified
1993	16 cents	16 cents
1994	14 cents	12 cents
1995	14 cents	8 cents
1996	12 cents	7/1/96 interstate rate

b. (1) Originating 800 to WAL Access:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Year	As Stipulated	As Modified
1993	4 cents	4 cents
1994	4 cents	4 cents
1995	4 cents	4 cents
1996	4 cents	7/1/96 interstate rate

(2) Terminating 800 to WAL Access:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Year	As Stipulated	As Modified
1993	10 cents	10 cents
1994	9 cents	8 cents
1995	8 cents	6 cents
1996	6 cents	7/1/96 interstate rate

(3) Total 800 to WAL Access:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Year	As Stipulated	As Modified
1993	14 cents	14 cents
1994	13 cents	12 cents
1995	12 cents	10 cents
1996	10 cents	7/1/96 interstate rate

c. (1) Originating 800 to Common Line Access

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Year	As Stipulated	As Modified
1993	4 cents	4 cents
1994	4 cents	4 cents
1995	4 cents	4 cents
1996	4 cents	7/1/96 interstate rate

(2) Terminating 800 to Common Line Access

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Year	As Stipulated	As Modified
1993	4 cents	4 cents
1994	4 cents	4 cents
1995	4 cents	4 cents
1996	4 cents	7/1/96 interstate rate

(3) Total 800 to Common Line Access

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Year	As Stipulated	As Modified
1993	8 cents	8 cents
1994	8 cents	8 cents
1995	8 cents	8 cents
1996	8 cents	7/1/96 interstate rate

6. ITC Access Charges

The Stipulation also establishes access charges for the ITCs and provides for modest decreases from existing levels over a four year transition period. The Commission is prepared to approve the access charge schedules for the ITCs.

7. 10XXX Access Discounts (Feature Group A, B, & D Access Discounts)

The Stipulation provides that 10XXX intrastate switched access will not receive any discount from the access rates contained in the Stipulation. During the litigation, the IXC's presented evidence showing that 10XXX access is a decidedly inferior form of access to the 1-Plus access which the LECs make available for their own toll customers. The IXC's argued that

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the LECs should be required to discount 10XXX access to provide some incentive for the LECs to deploy 1-Plus access for all toll providers. The appropriateness of such a discount raises difficult questions and the Commission is satisfied to accept the resolution of the parties in the context of the stipulated settlement of this proceeding.

8. Late Payment Charges

The Stipulation authorizes the LECs to amend their intrastate tariffs to initiate a schedule of charges for late payment, but does not specify any level of interest charges to be applied as late payment charges. Late payment charges are beneficial not only because they have the effect of reducing the outstanding unpaid balances due to the LECs, but also because they result in cost causers bearing the burden of the costs related to untimely bill payment. We have found the

adoption of late payment charges to be in the public good for other utilities. Re Ossipee Water Company, 66 NHPUC Rep. 134 (1981); Re Concord Natural Gas Corp., 65 NHPUC Rep. 630 (1980). Accordingly, the Commission finds that the Stipulation's authorization for the late payment charges is in the public interest. The Commission will open a rulemaking docket to determine the appropriate level of such charges for all utilities.

9. Unbundling and Presubscription

The Stipulation provides that the Commission will commence a workshop proceeding to consider the unbundling of NET's bottleneck network for purposes of costing and pricing. The workshop will consider and make recommendations on (a) the specific network elements to be identified for unbundling the network; (b) the appropriate costing methodology to be used; and (c) the specific pricing rules appropriate for the unbundled network elements and the bundled service offerings regulated by the Commission.

Under the Stipulation, the unbundling workshop will commence one year after approval of the Stipulation by the Commission, and to the extent that the parties and Staff are not able to reach agreement, these issues will be litigated before the Commission. The Stipulation further provides that the results of the workshop process, or any associated Commission order after hearing, will not be implemented sooner than July 1, 1996.

The Commission finds that the unbundling workshop is in the public interest as it will facilitate the further opening of NET's bottleneck control of exchange access facilities to competing providers of toll and information services. However, the Commission also finds that the public interest requires that the Commission retain the authority to determine the timing and implementation of its workshop proceedings and formal proceedings and its ability to move expeditiously. Accordingly, the Commission will approve the Stipulation only if the parties amend Section X(6) to eliminate any restrictions on the Commission's authority to commence the unbundling workshop or to determine the date for implementation of any unbundling order resulting from the workshop or any related proceedings.

Relatedly, Section X(3) of the Stipulation incorporates by reference the procedural schedule for litigating the issue of intraLATA presubscription in accordance with the terms of the 1/17/92 Stipulation. Under this provision the Commission is restricted from commencing the presubscription docket until one year from the effective date of a permanent access tariff and required to issue a final order within one year of commencement of the docket. For the reasons described above, the Commission will approve the Stipulation only if the parties amend this provision to eliminate both the restriction on the Commission's authority to commence the presubscription docket and the requirement that the Commission's final order issue within one year of the commencement of the docket.

10. Elimination of LEC Toll Pool

The Stipulation eliminates the existing LEC pool for the division of toll revenues between NET and the ITCs for the statewide joint provisioning of toll services and replaces it with new access charge arrangements between

NET and each ITC. The Stipulation provides the ITCs with optional transitional mechanisms as the ITCs convert from jointly providing toll to providing access, but the ITCs have all selected NET to be their designated toll carrier. The ITCs retain authority to provide toll services if they so elect. The Commission finds Section VI(A) of the Stipulation to be in the public interest.

11. Reporting and Monitoring

The parties have adopted detailed reporting requirements for the LECs and IXC's to provide information to assist the Commission and its Staff to monitor the state of competition in toll services in New Hampshire. We recognize that these reports, along with the additional information on MTS B, will provide the Commission with important information to evaluate the impact of competition under the terms of the Stipulation. We are concerned about the level of detail required and urge the parties to re-examine the reporting structure to assure that all of the information is actually required to perform the desired analysis.

Based on the data reported, the Staff will prepare a report on competition. At the end of the trial period, all parties may comment on any relevant competitive issue. The Commission finds that the Stipulation's reporting and monitoring provisions will promote the public good. F.

CONCLUSION

Although the Commission finds it in the public interest to accept the Stipulation only with the modifications specified in this Report, we believe the parties' ability to reach agreement on the sharply disputed issues involved in this proceeding is a significant achievement. We applaud the spirit of hard work, dedication, and willingness to compromise which must have accompanied this effort. We believe that the Stipulation, with the modifications we propose, presents a sound framework for intrastate toll competition to evolve in New Hampshire through the two year experiment and, if appropriate, into the future. The Stipulation represents an important evolution in bringing the benefits of competition to New Hampshire and its ratepayers. We also recognize that the modifications proposed by the Commission although modest in number may be significant and may be contrary to the interests of one or more of the parties. Nonetheless, we find that public good requires such modifications if intraLATA competition is to truly benefit New Hampshire and its ratepayers.

We appreciate the parties' position that the Stipulation contains terms that are interdependent and each provision was necessary to reach final settlement. The Commission recognizes that each party has reserved the right to renew the litigation as if no settlement had been reached if that party determines that any Commission modifications are unacceptable. Should any party elect to resume the hearings on this basis, the Commission fully respects their right to do so. In the event that the parties, or any one of them, cannot accept these modifications, the Commission will resume the hearings in this proceeding within 45 days of the date of the order. The Commission requests each of the parties to notify the Commission on or before June 25, 1993 whether such party has elected to accept the Commission's modifications or whether it elects to resume the hearings. If the hearings are resumed the Commission is prepared to reach a final decision as soon as possible after the closing of the record.

Our order will issue accordingly.

Concurring: June 10, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby ORDERED, that the Stipulation and Agreement Between the Parties of March 16, 1993 be, and hereby is, approved subject to the modifications specified in the Report; and it is

FURTHER ORDERED, that the parties notify the Commission on or before June 25, 1993 whether such party has elected to accept the Commission's modifications or whether it elects to resume the hearings.

By order of the New Hampshire Public Utilities Commission this tenth day of June, 1993.

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NH.PUC*06/10/93*[75103]*78 NH PUC 295*Locke Lake Water Company, Inc.

[Go to End of 75103]

Re Locke Lake Water Company, Inc.

Additional petitioner: Integrated Water Systems, Inc.

DE 93-084
Order No. 20,865
78 NH PUC 295

New Hampshire Public Utilities Commission

June 10, 1993

Report Addressing Petition of Locke Lake Water Company, Inc. to Transfer its Franchise and Water System to Integrated Water Systems, Inc.

Appearances: Ransmeier & Spellman by Dom S. D'Ambruoso, Esq. on behalf of Locke Lake Water Company, Inc.; Gallagher, Callahan & Gartrell by Tenley P. Callaghan, Esq. on behalf of Integrated Water Systems, Inc.; E. Barclay Jackson, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On May 3, 1993, Locke Lake Water Company, Inc. (Locke Lake) filed a petition to discontinue service to its franchise in a limited area in the town of Barnstead, New Hampshire. Concurrently, Integrated Water Systems, Inc. (Integrated Water or the Company) filed a petition requesting authorization to engage in business as a public utility, purchase the assets of Locke Lake and to serve the customers in that franchise area under the currently effective tariff on file with the Commission. An Order of Notice was issued May 7, 1993 ordering that a hearing be

held on May 25, 1993 to determine whether or not the requested relief was in the public good.

II. POSITIONS OF THE PARTIES

A. The Company

The Company's plans, researched with the Department of Environmental Services, call for acquisition of Locke Lake, and eventually of other community water systems, in order to provide improved water service regionally.

The president of Integrated Water, Raymond H. Seeley, testified to his experience in the operation and maintenance of water systems, gained while working for Lakes Region Water Company in Moultonboro, New Hampshire. In addition to formal training in plumbing and heating, Mr. Seeley has obtained licenses as a Class II Water Distribution Systems Operator, a Master Plumber, and a Pump Installer. His partner and treasurer of Integrated Water, Terry Morerod, is in process of obtaining a Class I Water Distribution Systems Operator's License.

The Company's agreement with Locke Lake calls for a purchase price of \$215,000 for the franchise assets only. Locke Lake will provide consulting services to the Company during a two year period at a cost of \$2,500 per quarter in order to insure a smooth transition of management. The Company testified as to its financial soundness, its capital structure, and capacity to meet the obligations of the agreement and improvements required by the Department of Environmental Services.

The Company plans improvements to the Locke Lake system, including the installation of meters, computerized billing on a monthly basis, an 800 number for 24 hour customer access, acquisition of additional water resources within the franchise area, leak detection proceedings and well up-grading.

A Certified Public Accountant firm was retained by the Company for advice regarding capital structuring, costs of the improvements envisioned, and operating budgeting. The accountant testified that, in his opinion, capital improvements have aggregated and operational costs have increased since the last rate increase granted in June, 1986. Both the accountant and the company president testified they are aware that the \$215,000 purchase price is in excess of the current estimate of rate base, which is \$170,000. Both testified that they understood that rates set by the Commission in any future rate case may very well not permit earnings on the excess purchase price, given the precedent in Commission case law.

B. The Commission Staff

The Staff of the New Hampshire Public Utilities Commission (NHPUC) stated that

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after review of the documents and examination of the Company witnesses it did not object to the proposed transfer of the franchise and assets of Locke Lake to Integrated Water. The Staff did question the reasonableness of the proposed consulting contract which is part of the purchase agreement. Staff questioned both the fees and the period of time contemplated by the contract.

C. Public Comments

Public comments were taken at the hearing. No motions for intervention or objections to the

joint petitions were proffered by members of the public.

Although not formally objecting to the transfer, the Locke Lake Colony Association Administrator, Mrs. Joanne V. Heger, testified as to the Association's ongoing concerns regarding service, supply, and metering.

Mr. Chris A. Bosco, who also did not object to the transfer, submitted a letter containing seven inquiries for the Commission's consideration.

III. COMMISSION ANALYSIS

Before granting the petition of Locke Lake to discontinue service, we must first examine the petition of Integrated Water to purchase the water system and to provide water service to the franchise area. Pursuant to RSA 374:22 and 26, our examination must determine whether the acquisition and franchising of a public water utility or entity is in the public good. The public good standard requires a showing of the managerial, financial, and technical expertise of the petitioning entity or individual to operate the proposed utility.

We find, based upon the information submitted in the petition, as well as oral testimony of the President of Integrated Water at the hearing held on May 25, 1993, that the requisite managerial, financial and technical expertise to operate the water system has been demonstrated and that the petition to provide service is in the public good.

Therefore, in view of the demonstrated capabilities of Integrated Water to operate and maintain the water system, we find that the petition to discontinue service by Locke Lake is in the public good.

The agreed upon purchase price for the assets of the water system was \$215,000 and an additional \$20,000 over a two year period is included in the purchase agreement. The books and records on file with the Commission currently value the assets at less than the agreed upon purchase price. In determining rates, the NHPUC uses original cost less accumulated depreciation for purposes of valuing plant in rate proceedings. Cost in this case will be based upon the value of the assets, as acknowledged by Integrated Water.

In the petition of Integrated Water to acquire the franchise and assets of the water system, the petitioner requests rates remain at the existing tariff level now in effect in the franchise area until such time in the future as the petitioner submits to the Commission and the Commission grants an adjustment to the current rates now governing the provision of water service to the customers in the Locke Lake franchise.

Our order will issue accordingly.

Concurring: June 10, 1993

ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that Integrated Water Systems, Inc. is authorized to engage in business as a public utility, purchase the assets of Locke Lake Water Company, Inc., and to serve the customers in that franchise area, and it is

FURTHER ORDERED, that Locke Lake Water Company, Inc. is granted permission to

discontinue service in the Town of Barnstead in a franchise area known as Locke Lake; and it is

FURTHER ORDERED, that the service provided to the customers in the Locke Lake area shall continue under the current tariff on file with the Commission; and it is

FURTHER ORDERED, that Integrated Water Resources, Inc. submit a tariff supplement to adopt the currently effective tariff of its predecessor to be effective on the date filed with this Commission.

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By order of the Public Utilities Commission of New Hampshire this tenth day of June, 1993.

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NH.PUC*06/14/93*[75104]*78 NH PUC 297*Granite State Telephone, Inc.

[Go to End of 75104]

Re Granite State Telephone, Inc.

DR 93-098

Order No. 20,866

78 NH PUC 297

New Hampshire Public Utilities Commission

June 14, 1993

Order Approving Tariff Revisions for Screened One Party Service and Public Access Line Service.

BY THE COMMISSION:

ORDER

On May 18, 1993 Granite State Telephone, Inc. (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to revise its existing tariff for Screened One Party Service and for Public Access Line Service (PAL) for effect June 18, 1993; and

WHEREAS, the proposed revisions to the Screened One Party Service tariff clarify that 800 numbers are not restricted, that directly- dialed calls to Directory Assistance will be denied, and that the billing of Operator-handled toll calls and Operator handled Directory Assistance calls to the originating number will be restricted; and

WHEREAS, the proposed revisions to the PAL service tariff are consistent with New England Telephone Company's Directory Assistance tariff and PAL service tariff; and

WHEREAS, upon review of the petition and the staff recommendation, the Commission

finds the proposed offering to be in the public good; it is therefore

ORDERED, that the proposed revisions to NHPUC No. 6

Section 2

First Revised Sheet 6

First Revised Sheet 7

Section 3

Second Revised Sheet 31 are approved.

By order of the New Hampshire Public Utilities Commission this fourteenth day of June, 1993.

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NH.PUC*06/15/93*[75105]*78 NH PUC 297*Public Service Company of New Hampshire

[Go to End of 75105]

Re Public Service Company of New Hampshire

Additional petitioners: North Atlantic Energy Corporation, Northeast Utilities Service Company, and State of New Hampshire

DR 93-092

Order No. 20,867

Re Vermont Electric Generation and Transmission
Cooperative, Inc.

DE 93-114

Order No. 20,867

78 NH PUC 297

New Hampshire Public Utilities Commission

June 15, 1993

Temporary and Base Rate Adjustments, Accounting Treatments, Increase in Seabrook Entitlement and Rate Agreement Amendments.

Petition Pursuant to RSA 374:30 for Approval of Agreement to Transfer Ownership of Seabrook Interest and a Motion to Consolidate the Petition with Proceedings in DR 93-092.

Report and Order Establishing Procedural Schedule, Scope of the Proceedings and Granting Petition to Consolidate Dockets

Appearances: Attys. Gerald M. Eaton and William F. Ardinger representing Public Service Company of New Hampshire, Northeast Utilities Service Company and North Atlantic Energy

Corporation; Senior Assistant Attorney General Harold T. Judd for the State of New Hampshire; Attorney Richard A. Samuels for the Vermont Electric Generation and Transmission Cooperative, Inc.; Consumer Advocate Michael W. Holmes on behalf of the residential ratepayers; and Amy L. Ignatius for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

This docket was opened on May 12, 1993 on the filing by Public Service Company of New Hampshire (PSNH), Northeast Utilities Service Company (NUSCO), North Atlantic

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Energy Corporation (NAEC), and the Office of the Attorney General for the State of New Hampshire (State) for the establishment of temporary and permanent base rate adjustments, approval of accounting treatments, an increase in Seabrook entitlement and approval of various Rate Agreement amendments. An Order of Notice was issued on May 13, 1993 scheduling a hearing on May 26, 1993 to address the issues of temporary rates, the collection of the New Hampshire franchise tax and a decrease in base rates to offset the Fuel and Purchased Power Adjustment Clause charge for SFAS 106. This hearing was held as scheduled and the Commission issued its decision thereon by Order No. 20,857 on May 28, 1993.

The same Order of Notice scheduled the hearing addressed herein, held on June 8, 1993, to establish a procedural schedule to address all remaining issues in the docket.

II. MOTION TO CONSOLIDATE

The only preliminary matter raised at the prehearing conference on June 8, 1993 was a Motion to Consolidate filed by the Vermont Electric Generation and Transmission Cooperative, Inc. (VEG&T) to consolidate docket DE 93-114 with docket DR 93-092. Docket DE 93-114 was opened on June 8, 1993 on the filing by VEG&T of a Petition Pursuant to RSA 374:30 for Approval of Agreement to Transfer Ownership of Seabrook Interest. VEG&T proposes to transfer its 0.41259 percent interest in the Seabrook project to NAEC pursuant to an agreement dated October 15, 1992 and a settlement agreement dated November 6, 1990. The proposed transfer of VEG&T's Seabrook share to NAEC is also at issue in docket DR 93-092, requiring that the two dockets address the issue in a consistent fashion. Staff and all parties present concurred in the Motion to Consolidate.

It appears that consolidation of the two dockets will promote administrative efficiency, will expedite both proceedings and will facilitate consistent consideration of each petition. Accordingly, we will grant the Motion to Consolidate.

III. PROCEDURAL SCHEDULE

After conferring off the record, the parties and Staff proposed the following procedural schedule for these proceedings:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

June 22, 1993	Direct testimony of PSNH, VEG&T and the State due
July 9, 1993 after	Last day for data requests. Data requests will be on a rolling basis, with responses due two weeks after a request is made
July 23, 1993	Last day for data responses
July 30, 1993	Staff, OCA and Intervenor testimony due
August 6, 1993	Last day for data requests
August 20, 1993	Last day for data responses
August 27, 1993	Rebuttal testimony due
September 21-23, 1993, 10:00 a.m.	Hearings on the Merits

The proposed procedural schedule appears to be reasonable and will be approved.

IV. SCOPE OF PROCEEDINGS

There is an agreement as to the scope of the proceedings, as set forth in a letter to the Executive Director & Secretary from the Office of the Attorney General submitted on behalf of the parties and Staff. Their proposed list of issues was submitted as follows:

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A. MEMORANDUM OF UNDERSTANDING

1. Whether the Commission should find that the rates resulting from the agreements in the Memorandum of Understanding ("MOU") (Exhibit 2) are just and reasonable and should be approved.

2. Whether the Commission should find that the settlement presented in the MOU is consistent with the public good and should be approved.

B. TAX AND SFAS 106 ADJUSTMENTS TO BASE RATES

1. Whether the Commission should find that PSNH is entitled to an adjustment to base rates, pursuant to the terms of the Rate Agreement, as a result of the enactment of Chapter 49 of 1993 New Hampshire Session Laws (i.e., the changes in utility tax laws.)

2. Whether the Commission should find that the proposed permanent base rate adjustment established as a temporary rate by the Commission is just, reasonable and consistent with the public interest and should be approved.

C. SFAS 106

1. Whether the Commission should find that the accounting treatment proposed in the MOU for SFAS 106 expenses is in the public interest and should be approved.

2. Whether the Commission should find that the MOU makes it unnecessary for the Commission to determine whether, under the Rate Agreement, PSNH would be permitted to recover the SFAS 106 related expenses during the fixed rate period.

D. SFAS 109

1. Whether the Commission should authorize the six year amortization treatment for the regulatory liability to be established by PSNH under the terms of the MOU and rate base treatment after the fixed rate period.
2. Whether the Commission could, absent the MOU and the agreement of PSNH, prescribe special accounting treatment for PSNH's net operating loss carryforwards ("NOLs") that would allocate the benefit of claiming the NOLs on PSNH's federal tax return to ratepayers during the fixed rate period.
3. Whether the Commission should find that the impact on PSNH's revenue requirement estimated to result from the proposed treatment of the NOLs, as set forth in the MOU, is consistent with the public interest.

E. VEG&T SEABROOK ENTITLEMENT

1. Whether VEG&T's transfer and NAEC's acquisition of VEG&T's Seabrook entitlement is consistent with the public interest and should be approved.
2. Whether PSNH's entering into the new power contract with NAEC concerning the VEG&T Seabrook entitlement is reasonable and consistent with the public interest.

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3. Whether the value of the VEG&T Seabrook entitlement at the time it will be recovered from ratepayers is appropriate in light of the least cost planning requirements of the Commission.
4. Whether the treatment of the VEG&T Seabrook entitlement proposed by the petitioners is consistent with the public interest.
5. Whether the proposed amendment to the "BA" assumptions of the Rate Agreement, that will be in a form sufficient to ensure that PSNH ratepayers will experience no increase in rates during the fixed rate period if the new reference assumptions are achieved, is consistent with the public interest.

F. AMENDMENTS TO THE RATE AGREEMENT

1. Whether the proposed amendment to the Rate Agreement relating to the treatment of the James River/Wausau Papers special discount rate when computing the ROE Collar is consistent with the public interest.
2. Whether the proposed amendments to the Rate Agreement concerning the treatment of increases in the Nuclear Decommissioning Fund is consistent with the public interest.
3. Whether the proposed amendment to the Rate Agreement relating to eliminating the overlap in the recovery of the Seabrook-related capital is consistent with the public interest.

G. GENERAL CONCERNS OF STAFF AND THE PARTIES

1. The Consumer Advocate expressed reservation in requesting an expansion of the scope in the event that the prefiled testimony of the petitioners, due to be filed on June 22, 1993, raises concerns that were not previously apparent. The parties and Staff acknowledge the complexity of some of the issues in this docket and requested that the Consumer Advocate's reservation be addressed in the Commission's order on scope.

2. The parties and Staff agree that any issue that first become apparent with the filing of the pre-filed testimony of the proponents and VEG&T must be identified within one week of the receipt of that testimony.

3. The parties and the staff agree that, in the event a party believes it is appropriate to identify a new issue, that party shall attempt to reach agreement with all other parties and the staff before submitting a request to the Commission for expansion of the scope.

4. The parties and the Staff agree that all other parties should be afforded the opportunity to comment on proposed new issues in the event agreement is not reached prior to the proposal of a new issue to the Commission.

The scope of the proceedings and procedures recommended by Staff and the parties appear reasonable and will be approved.

Our order will issue accordingly.

Concurring: June 15, 1993

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ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the motion filed by the Vermont Electric Generation and Transmission Cooperative, Inc. on June 8, 1993, to consolidate docket DE 93-114 (VEG&T Petition for Approval to Transfer Seabrook Ownership Share) and docket DR 93-092 (PSNH/NAEC/NUSCO/State of NH Petition for Temporary and Base Rate Adjustments, Accounting Treatments, Increase in Seabrook Entitlement and Rate Agreement Amendments) is granted; and it is

FURTHER ORDERED, that VEG&T's participation in these combined proceedings shall be limited to the issues raised in its petition in docket DE 93-114; and it is

FURTHER ORDERED, that the procedural schedule recommended by the parties and set forth in the report accompanying this order is hereby accepted; and it is

FURTHER ORDERED, that the issues and procedures proposed by Staff and the parties relating to the scope of the proceedings are hereby approved.

By order of the New Hampshire Public Utilities Commission this fifteenth day of June, 1993.

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NH.PUC*06/15/93*[75106]*78 NH PUC 301*Investigation into 1992 Energy Policy Act Requirements

[Go to End of 75106]

Re Investigation into 1992 Energy Policy Act Requirements

DE 93-071
Order No. 20,868
78 NH PUC 301

New Hampshire Public Utilities Commission

June 15, 1993

Report and Order Granting Campaign for Ratepayers Rights Requests for Intervention and Waiver of Filing Requirements and Denying Request for PURPA Compensation.

Appearances: David Saggau, Esq. on behalf of Granite State Electric Company; LeBeouf, Lamb, Leiby and MacRae by Scott Mueller, Esq. on behalf of Concord Electric Company and Exeter and Hampton Electric Company; William Bayard on behalf of New Hampshire Electric Cooperative, Inc.; George E. Sansoucy, on behalf of Waste Management of New Hampshire, Inc.; Kenneth C. Picton, Esq. on behalf of Connecticut Valley Electric Company, Inc.; Thomas B. Getz, Esq. on behalf of Public Service Company of New Hampshire; Kenneth A. Colburn on behalf of the Business and Industry Association of New Hampshire; James Anderson, Esq. on behalf of the Office of Consumer Advocate on behalf of residential ratepayers; Susan W. Chamberlin, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On April 16, 1993, the New Hampshire Public Utilities Commission (Commission) issued an order of notice, which was revised on May 7, 1993, regarding a new docket opened in conformance with the requirements of the federal Energy Policy Act of 1992. The Act required public utility commissions to complete a proceeding no later than October 24, 1993 which addresses the following four issues:

- (1) the potential for increases or decreases in the cost of capital for the purchasing utility, and any resulting increases or decreases in retail electric rates;
- (2) whether the use by nontraditional electricity producers of capital structures with more debt than utilities threatens reliability or provides these producers an unfair advantage over utilities;
- (3) whether to implement procedures for the advance approval or disapproval of specific long-term wholesale power purchases; and
- (4) whether to require as a condition for the approval of a long-term power

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purchase that there be reasonable assurance of fuel supply adequacy.

The Commission made Public Service Company of New Hampshire (PSNH), Connecticut Valley Electric Company, Inc. (CVEC), the New Hampshire Electric Cooperative, Inc. (NHEC), Concord Electric Company, Exeter and Hampton Electric Company (collectively the UNITIL Companies) and Granite State Electric Company (Granite State) mandatory parties to the proceeding. Other entities were offered an opportunity to move to intervene.

The Business and Industry Association of New Hampshire (BIA), Representative Amanda Merrill and Campaign for Ratepayers Rights moved for full intervention and Waste Management of New Hampshire, Inc. (Waste Management) moved for limited intervention. There were no objections raised to the intervention of BIA, Representative Merrill or Waste Management; the Commission, therefore, granted BIA and Representative Merrill full intervention and Waste Management limited intervention.

CRR, in addition to its petition to intervene, requested Public Utility Regulatory Policies Act (PURPA) compensation, waiver of certain filing requirements, asked that the Commission initiate a rulemaking regarding compensation for costs of participation and examination of PURPA and its operations in New Hampshire. Objections to some or all of its petition were filed by PSNH, CVEC, the UNITIL Companies and the Commission Staff (Staff).

II. POSITIONS OF PARTIES AND THE STAFF

A. *CRR*

CRR seeks full intervenor status, adoption of rules regarding compensation standards, evaluation of the general workings of PURPA in New Hampshire and compensation for its participation in the case. CRR further requests that the docket be expanded to include rulemaking on three additional PURPA standards involving integrated resource planning, investment in conservation and demand management and energy efficiency investments in power generation and supply. Finally, it asks that due to financial constraints, it be relieved of the filing requirements to submit multiple copies to the Commission and to serve other parties.

B. *PSNH*

PSNH did not object to CRR's request to intervene or the waiver of filing requirements. It did ask, however, that CRR serve all parties. PSNH opposed CRR's compensation request, arguing that CRR had not included a statement of PURPA issues and that its request for a rulemaking was inappropriate as part of this proceeding.

C. *CVEC*

CVEC does not object to CRR's intervention, but argues that such intervention is not as a matter of right under the ratemaking standards of PURPA, as this is not a ratemaking proceeding. Further, CVEC argues that the proceeding is not one involving evaluation of compensation and PURPA cases generally but should be limited to the four issues required by the Energy Policy Act of 1992. CVEC believes the issues raised by CRR could be represented by the OCA and Commission staff, thereby obviating the need for compensation and, finally, that waiver of the filing requirements could result in delay in an already constrained schedule.

D. The Companies

The Companies argue that the issues CRR raises in its petition are not those identified in the docket's Order of Notice and as such, CRR has not met the Commission's standards for intervention. In addition, the Companies oppose broadening the scope of this docket, given the short time frame.

E. Staff

The Commission Staff does not oppose CRR's intervention, and notes that with

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the passage of HB 136, there is no requirement for attorney representation. Staff opposes CRR's attempt to expand the scope of this docket, as it would render the docket unmanageable in the short time frame imposed by the federal government. Further, Staff argues that the federal time constraints make analysis of PURPA funding and initiation of a rulemaking unreasonable.

III. COMMISSION ANALYSIS

Having reviewed the requests made by CRR and the objections filed thereto by PSNH, CVEC, the Companies and the Staff, we conclude that CRR should be granted intervention. We agree with CVEC, however, that such intervention is not as a matter of right, as this docket is not a ratemaking proceeding.

We do not believe that this docket can or should be expanded into a rulemaking proceeding or general investigation into the workings of PURPA. While there are countless issues of interest in the Energy Policy Act of 1992, the federal mandate is for state commissions to complete their evaluation of the new PURPA § 111(d)(1) by October 24, 1993. The four issues identified in the order of notice are matters contained within § 111(d)(1). Integrated resource planning, investments in conservation and demand management and energy efficiency investments in power generation and supply are new PURPA sections but are not the subject of this docket or areas which the federal government has instructed state commissions to evaluate by October 24, 1993. In order to meet the October deadline, it is critical that the parties and Staff remain focused on the issues contained in the order of notice.

We can neither accept nor reject CRR's requested findings regarding its financial condition or source of funding. In recognition of its status as a non-profit organization, however, we will take certain steps to reduce costs. First, with the passage of HB 136, which the Commission endorsed, we note that there is no longer any requirement that an entity be represented by counsel before the Commission. We will allow Mr. Cushing or any other representative of CRR to appear before the Commission. CRR must, however, familiarize itself with our rules and strictly adhere to their terms. Second, in order to further minimize costs, we will grant CRR's request that it not be required to serve multiple copies of pleadings on the Commission or to file service copies of its pleadings on other parties. Instead, the Commission will make those additional copies, provided CRR allows at least one business day prior to any filing deadline during which the Commission can distribute the filings to the service list. Third, we will order all participants in the proceeding, with the exception of CRR, the Office of Consumer Advocate and the Commission Staff, to share equally in the cost of the transcripts.

Finally, we should note that the procedural schedule is already underway, in that a round of data requests has already been issued by the Staff. The first data requests are designed for the Staff to develop a data base from the utilities and qualifying facilities, from which the Staff and parties will be able to develop position papers for the duration of the case. It does not appear, therefore, that CRR is in any way disadvantaged by ruling on its intervention at this time. Of course CRR, like other full intervenors, will have the right to fully participate in the technical session, second round of data requests and filing of position papers.

Our order will issue accordingly.

Concurring: June 15, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that Campaign for Ratepayers Rights (CRR) is granted full intervention in this matter; and it is

FURTHER ORDERED, that CRR's request for waiver of filing requirements is granted, pursuant to the conditions contained within this report; and it is

FURTHER ORDERED, that CRR's request for PURPA compensation is denied; and it is

FURTHER ORDERED, that CRR's request for a rulemaking to expand funding standards is denied; and it is

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FURTHER ORDERED, that CRR's request to expand the scope of this docket to include other PURPA standards and the workings of PURPA in New Hampshire is denied; and it is

FURTHER ORDERED, that costs of transcripts shall be split evenly between the participants, with the exception of CRR, the Office of Consumer Advocate and the Commission Staff.

By order of the New Hampshire Public Utilities Commission this fifteenth day of June, 1993.

=====

NH.PUC*06/15/93*[75107]*— NH PUC —*Connecticut Valley Electric Company, Inc.

[Go to End of 75107]

Re Connecticut Valley Electric Company, Inc.

DR 92-082

Order No. 20-869

— NH PUC —

New Hampshire Public Utilities Commission

June 15, 1993

Least Cost Integrated Resource Plan Order Approving Amended Procedural Schedule.

[THE FOLLOWING CASE WAS NOT PUBLISHED IN NEW HAMPSHIRE VOLUME 78]
BY THE COMMISSION:

ORDER

Connecticut Valley Electric Company, Inc. (CVEC) and the Commission Staff previously entered into a procedural schedule for CVEC's Least Cost Integrated Resource Plan (LCIP), which was approved by the Commission; and

WHEREAS, CVEC and the Staff have been unable to meet the deadlines contained within the schedule due to other cases with conflicting deadlines; and

WHEREAS, CVEC and the Staff have agreed to an amended procedural schedule for the duration of the LCIP case as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Staff Data Requests due	June 18, 1993
CVEC Data Responses due	July 2, 1993
Staff Testimony due	July 26, 1993
CVEC Data Requests due	August 6, 1993
Staff Data Responses due	August 20, 1993
CVEC Rebuttal Testimony due	September 1, 1993
Hearing on the merits	September 8-9, 1993 10 a.m.;

it is hereby

ORDERED, that the procedural schedule delineated above appears reasonable and will be approved.

By order of the New Hampshire Public Utilities Commission this fifteenth day of June, 1993.

=====

NH.PUC*06/15/93*[75108]*78 NH PUC 304*Generic Investigation into Natural Gas Transportation Service and Rates

[Go to End of 75108]

Re Generic Investigation into Natural Gas Transportation Service and Rates

DE 91-149
Order No. 20,870
78 NH PUC 304

New Hampshire Public Utilities Commission

June 15, 1993

Report and Order Denying Motion for Rehearing of Commission's Order Denying Second Motion of Northern Utilities, Inc. to Designate Staff Advocates.

Appearances: Ransmeier & Spellman by Dom S. D'Ambruoso, Esq. and John T. Alexander, Esq. for Anheuser-Busch Companies, Inc.; McLane, Graf, Raulerson and Middleton by Jacqueline L. Killgore, Esq. for EnergyNorth Natural Gas, Inc.; LeBoeuf, Lamb, Leiby & MacRae by Paul Connolly, Esq. and Meabh Purcell, Esq. for Northern Utilities, Inc.; Devine, Millimet and Branch by Frederick J. Coolbroth, Esq. and Anu S. Mather, Esq. for Sprague Energy Corp.; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Business and Industry Association by Kenneth A. Colburn; James Anderson, Esq. of Office of Consumer Advocate for residential ratepayers; Amy Ignatius, Esq. for the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission) issued an Order of Notice on November 20, 1991, pursuant to a petition by Anheuser-Busch Companies, Inc. (Anheuser-Busch) for the purpose of commencing a generic investigation into natural gas transportation service and rates. The Commission granted intervention to the Business and Industry Association (BIA), Northern Utilities, Inc. (Northern), EnergyNorth Natural Gas, Inc. (ENGI), Public Service Company of New Hampshire and Northeast Utilities Service Company (collectively PSNH) and Sprague Energy Corp. (Sprague).

On December 1, 1992, ENGI and Northern jointly filed a Motion to Designate Staff, which the Commission denied in Report and Order No. 20,700 (December 15, 1992). A January 4, 1993 joint Motion for Rehearing was denied in Report and Order No. 20,734 (January 25, 1993). That denial was appealed to the New Hampshire Supreme Court by Northern; the Court, on May 5, 1993, declined to accept the appeal without prejudice to raise it upon completion of the case in full.

On April 9, 1993, Northern reasserted a request for designation of certain staff. The request was made formally in writing on April 15, 1993 (Second Motion) to which Anheuser-Busch, Sprague and Commission Staff objected on April 19, 1993. The Commission orally denied the Second Motion on April 21, 1993 during a hearing on the merits in this docket and in Report and Order No. 20,834 (May 4, 1993) formally denied the request. Northern filed a Motion for Rehearing of Order No. 20,834 on May 24, 1993, to which Sprague, Anheuser-Busch and Staff objected.

II. POSITIONS OF THE PARTIES AND STAFF

A. *Northern Utilities, Inc.*

Northern argues, once again, that the case is "contested" under the meaning of RSA

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541-A:16 and that the Administrative Procedures Act and RSA 363:12- c compel designation

of certain staff. Northern asserts violations of due process rights under the state and federal Constitutions and that the Commission's denial of its Second Motion was arbitrary and capricious.

B. EnergyNorth Natural Gas, Inc.

ENGI, though a party, took no position.

C. Anheuser-Busch

Anheuser-Busch objected to the Motion for Rehearing, referencing its earlier objections, asserting that the matter is not contested within the meaning of RSA 541-A:16-21 and, therefore, there have been no violations of due process rights.

C. Sprague

Sprague objected to the Motion for Rehearing, referencing its earlier objections.

D. Public Service Co. of New Hampshire

PSNH, though a party, took no position.

E. Business and Industry Association

BIA, though a party, took no position.

F. Office of Consumer Advocate

OCA, though a party, took no position.

G. Commission Staff

Staff objected to the Motion for Rehearing, again asserting that in its view, the case was not "contested" under the law and that due process had not been violated, particularly in light of Northern's admission that it did not question the Commission's impartiality.

III. COMMISSION ANALYSIS

We have reviewed Northern's Motion for Rehearing of Order No. 20,834 and the objections filed thereto. We deny the Motion for Rehearing, as it raises no arguments not previously raised in the two motions to designate and prior motion for rehearing. As previously found, we do not believe this is a "contested" case under the meaning of the Administrative Procedures Act, RSA 541- A:16 and see no basis on which to prohibit discussions between staff members and individual parties. Further, we do not read RSA 363:12-c to be applicable. Finally, given that Northern does not find any evidence of impartiality or concern that we are unable to "remain fair and to render an impartial decision" we cannot accept Northern's argument that our refusal to designate certain staff results in a denial of due process. For these reasons, as further delineated in Order No. 20,834, therefore, we deny the Motion for Rehearing.

Our order will issue accordingly.

Concurring: June 15, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that the Motion for Rehearing of Commission Order No. 20,834 filed by

Northern Utilities, Inc. is hereby denied.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of June, 1993.

=====

NH.PUC*06/15/93*[75109]*78 NH PUC 306*Investigation into 1992 Energy Policy Act Requirements

[Go to End of 75109]

Re Investigation into 1992 Energy Policy Act Requirements

DR 93-071

Order No. 20,871

78 NH PUC 306

New Hampshire Public Utilities Commission

June 15, 1993

Order Granting in Part and Denying in Part Motion for Leave to Object to Certain Data Requests by Specified and Unspecified Members of the Granite State Hydropower Association.

BY THE COMMISSION:

ORDER

WHEREAS, various specified and unspecified members of the Granite State Hydropower Association (GSHA) filed on June 14, 1993, a Motion for Leave to Object to Certain Data Requests Propounded by the New Hampshire Public Utilities Commission Staff (Staff); and

WHEREAS, the GSHA did not seek concurrence of Staff and known parties as required by N.H. Admin. Rule Puc 203.04(b); and

WHEREAS, the movants received said data requests beginning on June 2, 1993, and pursuant to N.H. Admin. Rule Puc. 204.06, have six (6) days from date of receipt in which to file any objections to the data requests; and

WHEREAS, Public Service Company of New Hampshire (PSNH) and the Staff objected to a similar motion filed by the Biomass Group on June 4, 1993, expressing concerns that granting the request for an extension of time could preclude the Commission from issuing a decision in this docket by the October 24, 1993 time frame required under the Energy Policy Act of 1992; and

WHEREAS, the Commission issued Order No. 20,863 on June 8, 1993, granting in part and denying in part, the Biomass Group's Motion for an Extension of Time and established the following procedural schedule regarding disposition of any objections to Staff data requests that the Biomass Group may file:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

June 11, 1993 Biomass Group shall file any objections it has to Staff data requests

June 17, 1993 Staff and PSNH shall file responses
12:00 NOON to any objections filed by the Biomass Group (modified by Commission letter dated June 15, 1993 extending response time to June 18, 1993 at 9:00 a.m.)

June 21, 1993 The Commission shall issue a decision on any filed objections and responses thereto

June 25, 1993 The Biomass Group shall file all data responses required by the Commission; and

WHEREAS, Staff and the parties have not yet had an opportunity to review and to respond to the instant motion filed by GSHA; and

WHEREAS, on June 14, 1993, SES Claremont, L.P.; SES Concord Company and Energy Tactics, Inc., filed objections to Staff data requests; and

WHEREAS, these matters must be expeditiously resolved for the Commission to render a decision in the time frame required; it is hereby

ORDERED, that the Motion for Leave to Object to Certain Data Requests by Specified and Unspecified Members of the GSHA is granted and the Motion shall be treated as GSHA's objection to certain data requests in conformance with the procedural schedule set forth by the Commission in Order No. 20,863, as modified, regarding similar objections filed by the Biomass Group:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

June 18, 1993 Staff and parties shall file 9:00 a.m. responses to GSHA's objections

June 21, 1993 The Commission shall issue a decision, without hearing, on any filed objections and responses thereto

June 25, 1993 GSHA members shall file all data responses required by the Commission in the decision to be rendered on June 21, 1993; and it is

FURTHER ORDERED, that the same procedures and schedules set forth above pertaining to the Biomass Group and GSHA shall also apply to other such objections, if timely filed; and it is

FURTHER ORDERED, that in consideration of the time frames under which the Commission is required to act in this matter, the GSHA's request to file an additional Memorandum of Law is denied.

By order of the New Hampshire Public Utilities Commission this fifteenth day of June, 1993.

=====

NH.PUC*06/15/93*[75110]*78 NH PUC 307*AT&T Communications of New Hampshire Inc.

[Go to End of 75110]

Re AT&T Communications of New Hampshire Inc.

DE 93-108
Order No. 20,872
78 NH PUC 307

New Hampshire Public Utilities Commission

June 15, 1993

Order *Nisi* Approving AT&T Commercial Long Distance Service.

BY THE COMMISSION:

ORDER

On May 28, 1993 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce AT&T Commercial Long Distance Service which will provide a separate rate schedule for commercial customers. WHEREAS, AT&T proposed the filing become effective June 28, 1993; and

WHEREAS, the proposed tariff expands the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than July 12, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than June 25, 1993 and is to be documented by affidavit filed with this office on or before July 15, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages are approved:

NHPUC Tariff No. 1 - CUSTOM NETWORK SERVICES

Master Table of Contents - 10th Revised Page 1

Table of Contents - Original Page 19

Section 17 - Original Pages 1 through 5

NHPUC Tariff No. 4 - AT&T LONG DISTANCE SERVICE

Section 2 - 1st Revised Page 4

2nd Revised Page 5;

and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 20 days from the publication of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this fifteenth day of June, 1993.

=====

NH.PUC*06/15/93*[75111]*78 NH PUC 308*AT&T Communications of New Hampshire Inc.

[Go to End of 75111]

Re AT&T Communications of New Hampshire Inc.

DE 93-109

Order No. 20,873

78 NH PUC 308

New Hampshire Public Utilities Commission

June 15, 1993

Order *Nisi* Approving Revisions to AT&T Multiquest Service.

BY THE COMMISSION:

ORDER

On May 28, 1993 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to revise its Multiquest Service tariff to charge different rates, depending on usage, for Multiquest customers who subscribe to the Caller Free Time Option.

WHEREAS, Multiquest is AT&T's 900 service which allows information providers to purchase 900 numbers for the provision of pay-per-call type services; and

WHEREAS, the Caller Free Time Option allows information providers (the Multiquest customer) to offer its customers an introductory message without incurring a charge for the call if the customer hangs up in a certain length of time; and

WHEREAS, the tariff revision establishes different charges depending on the length of time the information provider gives its customer to hang up without incurring a charge; and

WHEREAS, AT&T proposed the filing become effective June 28, 1993; and

WHEREAS, the proposed tariff expands the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than July 12, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than June 25, 1993 and is to be documented by affidavit filed with this office on or before July 15, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages are approved:

NHPUC Tariff No. 1 - CUSTOM NETWORK SERVICES

Section 6 - 2nd Revised Page 5

Section 15 - 1st Revised Page 5;

and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 20 days from the date of publication, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this fifteenth day of June, 1993.

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NH.PUC*06/21/93*[75112]*78 NH PUC 308*David Baillie v. Public Service Company of New Hampshire

[Go to End of 75112]

David Baillie v. Public Service Company of New Hampshire

DC 93-090

Order No. 20,874

78 NH PUC 308

New Hampshire Public Utilities Commission

June 21, 1993

Report and Order establishing responsibility for electric bill pursuant to N.H. Admin. R., Puc

303.08(c)(1)e.

Appearances: Gerald M. Eaton, Esq. on behalf of Public Service Company of New Hampshire, Inc.; and Wallace Ramsden on behalf of the New Hampshire Public Utilities Commission.

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BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On April 27, 1992, Public Service Company of New Hampshire, Inc. (PSNH) established service in the name of Rose Mary McAllister at 152 North Road in Deerfield, New Hampshire. In June of 1992 Ms. McAllister requested that all future bills for the North Road residence be mailed to a P.O. Box in Deerfield.

On August 9, 1992, PSNH received a call from Mr. David Baillie requesting that service to the North Road residence be terminated in the name of Ms. McAllister and established in his name. On November 24, 1992, Mr. Baillie contacted PSNH and requested that all future bills for the North Road residence be mailed to the same P.O. Box in Deerfield that Ms. McAllister had used.

PSNH testified that, based upon information from the property manager of the North Road residence, and upon their own investigation, that Mr. Baillie and a woman known to him as Rose property manager as Rose Mary had been residing together at the North Road residence since May of 1992 and that he had always assumed the two individuals were husband and wife.

Based on this information PSNH informed Mr. Baillie on February 8, 1993, that they believed he was responsible for all arrearages accrued at the North Road residence under Ms. McAllister's name.

On February 17, 1993, Mr. Baillie contacted PSNH and disputed the assertion that he had any relationship with Ms. McAllister.

On March 29, 1993, pursuant to N.H. Admin. R., Puc 303.08(- c)(1)e, PSNH requested the permission of the Commission to issue a disconnect notice to Mr. Baillie for the arrearages accrued at the residence under Ms. McAllister's name. Based on the information recited above, the Consumer Assistance Department of the Commission granted PSNH permission to issue a disconnect notice to Mr. Baillie.

A disconnect notice was issued to Mr. Baillie on May 13, 1993, but was never executed because Mr. Baillie requested a hearing before the commission on the issue.

A hearing before the commission was set for May 19, 1993 at 10:00 A.M. at Mr. Baillie's specific request. On May 18, 1993, at approximately 4:00 P.M., however, Mr. Baillie contacted the Consumer Assistance Department and requested a continuance of the hearing due to the illness of one of his children. The Consumer Assistance representative requested that Mr. Baillie verify the illness by a physicians letter. Mr. Baillie indicated that he could not comply with this request because he did not believe in the use of physicians for religious reasons.

On May 19, 1993, PSNH presented evidence relative to this issue at the scheduled hearing. Mr. Baillie did not appear.

At the Commissioners direction the Consumer Assistance Department contacted Mr. Baillie to reschedule the hearing to provide him an opportunity to address the evidence presented by PSNH. At that time Mr. Baillie withdrew his request for a hearing.

IV. COMMISSION ANALYSIS

The issue before the commission is whether PSNH may treat Mr. Baillie and Ms. McAllister as a single customer for the purposes of arrearages pursuant to Puc 303.08(c)(1)e and for the purposes of all future requests for utility service. Based on the evidence before us, and Mr. Baillie's refusal to rebut this evidence, we find that Mr. Baillie and Ms. McAllister are and shall be obligated in the future to pay for all utility services provided in either name.

Our order will issue accordingly.

Concurring: June 21, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby ORDERED, that Public Service Company of New Hampshire, Inc. may treat Rose Mary McAllister and David Baillie as one customer for the purposes of arrearages and requests for service.

By order of the New Hampshire Public Utilities Commission this twenty-first day of June, 1993.

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NH.PUC*06/21/93*[75113]*— NH PUC —*Public Service Company of New Hampshire

[Go to End of 75113]

Re Public Service Company of New Hampshire

DR 93-083
Order No. 20-875
— NH PUC —

New Hampshire Public Utilities Commission

June 21, 1993

Sawmill Generation Deferral Service Rate SGD and Special Contract NHPUC-88 Order Accepting Procedural Schedule.

[THE FOLLOWING CASE WAS NOT PUBLISHED IN NEW HAMPSHIRE VOLUME 78.]
BY THE COMMISSION:

ORDER NO. 20,875

On April 30, 1993, Public Service Company of New Hampshire (PSNH) filed with the New Hampshire Public Utilities Commission (Commission) testimony, a technical statement and exhibits supporting a new tariff rate, Sawmill Generation Deferral Service Rate SGD (Rate SGD), effective June 1, 1993. In conjunction with Rate SGD, PSNH filed Special Contract NHPUC-88 with New Kearsarge Corporation effective June 1, 1993 for a period of five years, in accordance with the terms of Rate SGD; and

WHEREAS, on May 25, 1993, the Commission issued Order No. 20,852 suspending Rate SGD to allow for thorough review and temporarily approving Special Contract NHPUC-88 pending final resolution of the Rate SGD investigation; and

WHEREAS, a prehearing conference was scheduled for June 15, 1993, with petitions for intervention due no later than June 11, 1993; and

WHEREAS, there were no requests for intervention; and

WHEREAS, the June 15, 1993 hearing was attended by PSNH and the Staff, at which PSNH and the Staff stipulated to the following procedural schedule:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Staff data requests to PSNH	June 30, 1993
Technical Session	June 30, 1993 10 am
PSNH data responses	July 9, 1993
Staff Testimony	July 23, 1993
PSNH rebuttal testimony	August 6, 1993
Hearing on merits	August 12, 1993 10 am; and

WHEREAS, the Commission finds the foregoing schedule to be reasonable; it is hereby ORDERED, that the foregoing procedural schedule is accepted.

By order of the New Hampshire Public Utilities Commission this twenty-first day of June, 1993.

=====

NH.PUC*06/21/93*[75114]*78 NH PUC 310*Northern Utilities, Inc.

[Go to End of 75114]

Re Northern Utilities, Inc.

DE 92-045
Order No. 20,876
78 NH PUC 310

New Hampshire Public Utilities Commission
June 21, 1993

Order Approving Pilot Demand-Side Management Program.

BY THE COMMISSION:

Pilot Demand-Side Management Program

ORDER

WHEREAS, on December 21, 1992 the New Hampshire Public Utilities Commission (Commission) approved a Letter Agreement (Order No. 20,707) that included the requirement that Northern Utilities, Inc. (Northern) submit, as part of its integrated resource planning process, a proposal for a pilot demand-side management (DSM) program; and

WHEREAS, the objective of the pilot is to collect site specific information to assist in the development of a full scale DSM program; and

WHEREAS, on April 8, 1993 Northern filed its original pilot DSM proposal comprised of a free energy audit, installation of wall, attic, duct or pipe insulation and a domestic hot water package; and

WHEREAS, Northern proposed to offer customers a 33% contribution toward the cost of the recommended measures or a zero interest loan to be repaid over 48 months; and

WHEREAS, 53% of the proposed \$500,000 budget consists of loan repayments, 17% direct incentives and the remainder administrative costs; and

WHEREAS, in response to comments from Staff, Northern filed a revised pilot DSM proposal comprised of utility contributions of 33%, 50%, and 66% and a zero interest 48 month installment loan; and

WHEREAS, a larger share of the revised \$478,000 budget will be earmarked to fund the utility contributions; and

WHEREAS, Northern proposed to charge interest on the balance of DSM loans at an annual rate of 13.19% (i.e., Northern's approved pretax cost of capital) and Staff recommended rather the (lower) rate paid to customer deposits; and

WHEREAS, for purposes of the pilot, Northern agrees to use the lower rate but reserves the right to argue for a different interest rate if a loan arrangement is included in any future full scale DSM filing; and

WHEREAS, because the lost revenues associated with the proposal are not significant, Northern will not seek recovery of those costs during the period of the pilot; and

WHEREAS, Northern plans to begin implementation of the pilot program on July 1, 1993; and

WHEREAS, the Commission finds the revised pilot program to be consistent with the intent of the Letter Agreement and therefore in the public good; it is hereby

ORDERED, that the revised pilot DSM program design is approved; and it is

FURTHER ORDERED, that the prime rate be designated as the interest rate to be charged on loans made under the pilot program; and it is

FURTHER ORDERED, that Northern's right to argue for a different interest rate in the context of a full scale DSM program is reserved; and it is

FURTHER ORDERED, that Northern file prior to the effective date compliance tariffs based on the revised interest rate; and it is

FURTHER ORDERED, that our approval of the installment loan arrangement is limited only to the proposed pilot and should not be construed as a general endorsement of this type of financing for DSM.

By order of the New Hampshire Public Utilities Commission this twenty-first day of June, 1993.

=====

NH.PUC*06/22/93*[75115]*78 NH PUC 311*GTE New Hampshire

[Go to End of 75115]

Re GTE New Hampshire

DR 93-105

Order No. 20,877

78 NH PUC 311

New Hampshire Public Utilities Commission

June 22, 1993

Employers Accounting for Postretirement Order Establishing Appropriate Accounting and Ratemaking Treatment for Post Retirement Benefits Other Than Pensions (OPEB) FAS 106 as Regards GTE New Hampshire.

BY THE COMMISSION:

ORDER

WHEREAS, in December 1990 the Financial Accounting Standards Board (FASB) released its Statement of Financial Accounting Standards No. 106, Employers Accounting for Postretirement Benefits Other than Pensions, (OPEB); and

WHEREAS, the standard applies to all companies that prepare financial statements in accordance with generally accepted accounting principles (GAAP), i.e., all publicly traded companies and others whose lenders require statements; and

WHEREAS, the standard is effective for fiscal years beginning after December 15, 1992, to all companies who have more than 500 plan participants, which makes it applicable to GTE New Hampshire; and

WHEREAS, GTE New Hampshire was a signatory to a Stipulation Agreement signed on

March 24, 1993, at the Commission, which set forth the accounting and ratemaking treatment for post-retirement benefits other than pensions; and

WHEREAS, said stipulation contained in part the following provisions:

1) Utilities shall be allowed to recognize in rates the full accrual of (OPEB of PBOP) expenses consistent with the accounting principles set forth in FAS 106.

2) The Accumulated Postretirement Benefit Obligation portion of the FAS 106 liability shall be amortized over a 20 year period.

3) The utilities, with the exception of the seven "Special Circumstance Companies" which included GTE New Hampshire agree to utilize external trusts for PBOP funding. The seven Special Circumstance Companies will not be required to maintain external funding, and therefore will fund internally.

4) For the Special Circumstance Companies any unfunded amounts included in rates will be treated as a rate base deduction offset by any income tax payments. Any settlement, curtailment, or other change in the company's PBOP plan which results in a substantial decrease in accruals as defined in SFAS 106 shall be amortized as provided by SFAS 106 or pursuant to a Commission approved refund plan.

; and

WHEREAS, GTE New Hampshire was granted approval to be a "Special Circumstance Company" following the stipulation guidelines; and

WHEREAS, a final meeting was held on May 10, 1993, at the Public Utilities Commission office, between the New Hampshire Public Utilities Staff and GTE New Hampshire representatives to finalize GTE New Hampshire's FAS 106 filing requirements; and

WHEREAS, said meeting produced the following final agreement:

1) GTE New Hampshire plans to fully implement SFAS 106.

2) GTE New Hampshire will amortize the Accumulated Post Retirement Obligation (APBO) over 20 years.

3) Telephone service rates will not be changed July 1, 1993. GTE New Hampshire plans no rate increases in 1993 as a result of implementation.

4) Therefore, GTE New Hampshire will not defer the amounts of the postretirement benefits other than pension (PBOP) expenses incurred between

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the date of adoption and the date of implementation of the new rates reflecting the PBOP expenses. These expenses will be recognized immediately.

5) External funding will not be maintained. SFAS 106 expenses will be funded internally.

6) The unfunded portion of the SFAS 106 liability will be treated as a rate base reduction and may be partially offset by any increase due to a deferred income tax

impact. Any settlement, curtailment, or other change in the Company's PBOP plan which results in a substantial decrease in accruals as defined in SFAS 106 shall be amortized as provided by SFAS 106 or pursuant to a Commission approved refund plan.

; it is hereby

ORDERED, that GTE New Hampshire implement the provision of SFAS 106 as follows:

- 1) GTE New Hampshire shall implement SFAS 106 retroactive to January 1993.
- 2) GTE New Hampshire will amortize the Accumulated Post Retirement Obligation (APBO) over 20 years.
- 3) Telephone service rates will not be changed July 1, 1993. GTE New Hampshire plans no rate increases in 1993 as a result of implementation.
- 4) Therefore, GTE New Hampshire will not defer the amounts of the postretirement benefits other than pensions expenses incurred between the date of adoption and the date of implementation of the new rates reflecting the PBOP expenses. These expenses will be recognized immediately.
- 5) External funding will not be required. SFAS 106 expenses will be funded internally.
- 6) The unfunded portion of the SFAS 106 liability will be treated as a rate base reduction and may be partially offset by any increase due to a deferred income tax impact. Any settlement, curtailment, or other change in the Company's PBOP plan which results in a substantial decrease in accruals as defined in SFAS 106 shall be amortized as provided by SFAS 106 or pursuant to a Commission approved refund plan.

By order of the New Hampshire Public Utilities Commission this twenty-second day of June, 1993.

=====

NH.PUC*06/22/93*[75116]*78 NH PUC 312*Lakeland Management Company, Inc.

[Go to End of 75116]

Re Lakeland Management Company, Inc.

DR 91-058
Order No. 20,878
78 NH PUC 312

New Hampshire Public Utilities Commission

June 22, 1993

Order to Show Cause Why Utility Should Not Be Required to Meet a Capital Improvements Deadline.

BY THE COMMISSION:

ORDER

WHEREAS, Order # 20,525 was issued in DR 91-058 on June 30, 1992 granting a permanent rate increase to Lakeland Management Company, Inc. (Lakeland) and at the same time requiring Staff of the New Hampshire Public Utilities Commission (Staff) and Lakeland to make specific efforts to resolve an issue of capital improvements needed to address water pressure deficiencies; and

WHEREAS, Order # 20,556 was issued in the same docket on August 3, 1992 accepting a capital improvement program, "with final expenses to be subject to approval in a future order for inclusion in rate base as a step increase"; and

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WHEREAS, the capital improvement consisted of a booster pump station and associated mains to increase pressure to the entire Granite Ridge portion of Lakeland's water system; and

WHEREAS, the report issued in conjunction with Order # 20,556 stated that "Lakeland estimated that construction would be complete by the end of October," 1992; and

WHEREAS, Lakeland completed the booster station in the fall of 1992 but failed to tie 2 of the 26 Granite Ridge customers into the new high pressure system; and

WHEREAS, Lakeland indicated to Staff in December, 1992 that the company would tie those two units into the high pressure system in the spring; and

WHEREAS, Thomas Dolan, one of the two Granite Ridge customers not receiving the boosted pressure, complained to the Commission in writing on May 24, 1993 and again on June 9, 1993, that he was still not tied into the high pressure system; and

WHEREAS, Staff responded in writing to Mr. Dolan and to Lakeland, the response to the latter requesting submission of a proposed schedule for tie-in of the two units, with a completion date no later than July 31, 1993; and

WHEREAS, in written and verbal communication with Staff, Lakeland has indicated that it is not willing to tie the two remaining units in until fall and may in fact now oppose tying the units in at all; it is hereby

ORDERED, that Lakeland Management Co., Inc., appear before the New Hampshire Public Utilities Commission at its offices at 8 Old Suncook Road, Concord, New Hampshire at 10:00 A.M. on July 16, 1993 to show cause why the company should not be required to tie the two remaining Granite Ridge units into the new high pressure system by July 31, 1993; and it is

FURTHER ORDERED, that the Secretary of the Commission send a copy of this notice to the two above-referenced Granite Ridge customers, by first class mail, on or before June 25, 1993; and it is

FURTHER ORDERED, that if Lakeland certifies to the Commission by July 14, 1993 that the tie-ins have been completed, the hearing will be cancelled.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of

June, 1993.

=====

NH.PUC*06/22/93*[75117]*78 NH PUC 313*Lakes Region Water Company, Inc.

[Go to End of 75117]

Re Lakes Region Water Company, Inc.

DF 93-094

Order No. 20,879

78 NH PUC 313

New Hampshire Public Utilities Commission

June 22, 1993

Order Approving Financing.

BY THE COMMISSION:

ORDER

WHEREAS, Lakes Region Water Company, Inc., (the "Company"), a New Hampshire corporation with its principal place of business in Moultonboro, New Hampshire, filed with the Commission, on May 13, 1993, a petition for approval of financing for the issuance by the company of long term debt and the mortgaging of its property as security; and

WHEREAS, the company is a public utility engaged in providing water service primarily to residential customers in the Towns of Moultonboro, Wolfeboro, Tuftonboro, Thornton, Campton, Conway and North Conway and the City of Laconia, New Hampshire; and

WHEREAS, the proposed long term debt will be a term loan from Farmington National Bank (the "Bank") with a principal amount of \$380,000 and an amortization period of fifteen years, with interest payable at approximately 8.75%; and

WHEREAS, the proposed long term debt has received tentative approval for guarantee by the Small Business Administration (SBA); and

WHEREAS, the Company proposes to utilize the proceeds of the long term debt to 1) repay existing debt in the sum of \$212,396, all of which currently carries interest rates in excess of the proposed financing; 2) establish a new well field in its Paradise Shores franchise area at a cost of approximately \$75,000; and 3) acquire land and construct an office building at a cost of approximately \$90,000; and

WHEREAS, the company anticipates that various fees and expenses associated with

obtaining this financing will approximate \$7,786; and

WHEREAS, the company had no short term debt outstanding at March 31, 1993, and the capital structure of Lakes Region Water as of March 31, 1993 consisted of the levels of debt and equity listed in the following table:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Capital Stock	10,000
Paid-in Capital	217,650
Retained Earnings	1,750
Total Equity	<u>229,400</u>
Long Term Debt	<u>231,700</u>

WHEREAS, the Company has submitted financial documents and pro- forma statements justifying the terms, amount and purposes of the proposed financing; and

WHEREAS, the Bank is unable to issue a commitment letter at this time for the full amount of the proposed financing until additional congressional funding authorization for the SBA is enacted; and

WHEREAS, the Bank is willing to provide interim, short-term financing to the Company in the amount of \$32,000 at an interest rate of Prime plus 2.75% to acquire the land for the well field; and

WHEREAS, the Company has committed to purchasing said land no later than June 28, 1993; and

WHEREAS, after investigation by the Commission, pursuant to RSA 369:4, it appears that it is consistent with the public good to approve Lakes Region's request for this interim short-term financing; it is hereby

ORDERED, that the interim financing agreement between Lakes Region Water Company, Inc. and Farmington National Bank is consistent with the public good and is hereby approved, pursuant to RSA 369:1; and it is

FURTHER ORDERED, that the Company will submit a letter of commitment from the Bank regarding the long term note before this Commission approves said long term debt.

By order of the New Hampshire Public Utilities Commission this twenty-second day of June, 1993.

=====

NH.PUC*06/22/93*[75118]*78 NH PUC 314*Investigation into 1992 Energy Policy Act Requirements

[Go to End of 75118]

Re Investigation into 1992 Energy Policy Act Requirements

DE 93-071

Order No. 20,880

78 NH PUC 314

New Hampshire Public Utilities Commission

June 22, 1993

Order Denying Objections of BioMass Producers, Granite State Hydropower Association, Energy Tactics, Inc., SES Concord Company and SES Claremont, L.P. and American Hydro, Inc.-Peterborough to Certain Data Requests Propounded by Staff.

BY THE COMMISSION:

ORDER

On May 28, 1993, pursuant to the procedural schedule developed at the May 18, 1993 prehearing conference and adopted by the Commission on May 25, 1993 by Report and Order No. 20,853, Staff served data requests on 80 entities that provide energy and/or capacity to franchised utilities in New Hampshire under long term rate orders or contracts; and

WHEREAS, Objections were filed to certain data requests by the Biomass producers on June 11, 1993, by Granite State Hydropower Association, SES Concord Company and SES Claremont, L.P., and Energy Tactics, Inc. on June 14, 1993, and American Hydro Inc. - Peterborough on June 17, 1993, arguing that as Qualifying Facilities they were exempt from disclosure under the provisions of § 362-A:2 of the Limited Electrical Energy Producers Act and 16 U.S.C. § 824-a-3 of the Public Utility Regulatory Policy Act; and

WHEREAS, on June 18, 1993 Public Service Company of New Hampshire filed a Motion to Compel Responses to Data Requests and Staff filed its Response to Objection to Data Requests, arguing that as public utilities these facilities continue to be subject to on-going regulatory oversight and are not exempt from Commission inquiry under either state or federal law; and

WHEREAS, the Commission finds persuasive the Staff's arguments regarding the need for the requested information as the basis for findings required of the Commission by the Energy Policy Act of 1992, and does not agree that the Commission lacks the authority to investigate such matters; it is therefore

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ORDERED, that the Objections by the Biomass Producers, Granite State Hydropower Association, Energy Tactics, Inc., SES Concord Company and SES Claremont, L.P., and American Hydro, Inc.- Peterborough be, and hereby are, denied; and it is

FURTHER ORDERED, that, unless accompanied by a motion for protective treatment pursuant to RSA 91-A, responses to all outstanding staff data requests shall be filed with all parties and staff designated on the official service list for this docket on or before June 25, 1993, in accordance with the previously approved procedural schedule: and it is

FURTHER ORDERED, that any response which is considered confidential by the respondent shall be filed in triplicate with the Office of the Secretary, accompanied by a motion

for protective treatment pursuant to RSA 91-A, specifying why the responses in question should not be made public, on or before June 25, 1993, in accordance with the previously approved procedural schedule; and it is

FURTHER ORDERED, that responses to such requests for protective treatment be filed by June 30, 1993 and that the information for which confidential treatment is requested be protected until the Commission has an opportunity to rule on the request.

By order of the New Hampshire Public Utilities Commission this twenty-second day of June, 1993.

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NH.PUC*06/23/93*[75119]*78 NH PUC 315*Lakes Region Water Company, Inc.

[Go to End of 75119]

Re Lakes Region Water Company, Inc.

DR 93-067

Order No. 20,881

78 NH PUC 315

New Hampshire Public Utilities Commission

June 23, 1993

Order Suspending Proposed Tariff Revisions and Scheduling Prehearing Conference to Set Procedural Schedule in Permanent Rate Proceeding.

BY THE COMMISSION:

ORDER

On March 30, 1993 Lakes Region Water Co. (Company) filed a petition for an increase in its permanent rates. On April 6, 1993 the Commission rejected the Company's filing on the basis that it did not fully comply with the requirements set forth in N.H. Admin. Rules Puc 1603(a) and 1600(e); and

WHEREAS, on May 28, 1993 Lakes Region Water Co. refiled revised schedules which included information noted in the Commission's letter to Lakes Region Water Co. dated April 6, 1993; and

WHEREAS, Lakes Region Water Co. has requested an proposed increase in its permanent rate level, pursuant to RSA 378:28, which would become effective on June 28, 1993; and

WHEREAS, the Company proposed an overall increase of \$64,697 or 26.40% of its annual revenue; and

WHEREAS, coincident with the request for an increase in its permanent rates, Lakes Region Water Co., Inc. submitted a petition for temporary rate relief, pursuant to RSA 378:27, in the

amount of the proposed permanent rate increase; and

WHEREAS, a full investigation is necessary to determine whether or not the proposed increases are in the public good; it is therefore

ORDERED, that NHPUC No. 4, Lakes Region Water Company, Inc. is hereby suspended; and it is

FURTHER ORDERED, that, pursuant to N.H. Admin. Rule Puc 203.05, a prehearing conference to address procedural matters governing the pendency of this proceeding be held before the Commission at its offices at 8 Old Suncook Road, Concord New Hampshire at 10:00 a.m. on July 15, 1993; and it is

FURTHER ORDERED, that at the prehearing conference dates be set for a temporary rate hearing and the filing of testimony on temporary rates, thereby allowing parties granted intervenor status as well as other interested persons an opportunity to review the company's temporary rate request and to be heard as to whether or not the commission should establish temporary rates; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rule Puc 203.01, that the petitioner notify all persons desiring to be heard and that they should appear at the said hearing where they may be heard on the question of whether the proposed revenue increase is in the public good, by causing an attested copy of this order to be published once in a newspaper hav-

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ing general circulation in that portion of the state in which operations are proposed, such publication to be no later than July 1, 1993; and it is

FURTHER ORDERED, that Lakes Region Water Co., Inc. document compliance with these notice provisions by affidavits to be filed with the commission on or before July 15, 1993; and it is

FURTHER ORDERED, that, pursuant to N.H. Admin. Rules Puc 203.02, any party seeking to intervene in the proceeding must submit an original motion and 8 copies to the commission with a copy to the petitioner, on or before July 12, 1993.

By order of the New Hampshire Public Utilities Commission this twenty-third day of June, 1993.

Any individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability, should contact the PUC ADA Coordinator, at the New Hampshire Public Utilities Commission, 8 Old Suncook Road, Concord, New Hampshire 03301-5185; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Preferably, notification of the need for assistance should be made on or before July 8, 1993.

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NH.PUC*06/23/93*[75120]*78 NH PUC 316*Generic Discounted Rates Docket

[Go to End of 75120]

Re Generic Discounted Rates Docket

DR 91-172
Order No. 20,882
78 NH PUC 316

New Hampshire Public Utilities Commission

June 23, 1993

Supplemental Order Approving Final Checklist for Economic Development and Business Retention Special Contracts.

BY THE COMMISSION:

ORDER

On April 2, 1993, the Commission issued Order No. 20,805 requesting that any comments and suggestions on the draft checklist for economic development and economic retention special contracts attached to the Order be filed no later than April 16, 1993 and/or request an opportunity to be heard on the matter; and

WHEREAS, the Commission allowed the parties and staff an additional period of time, until June 4, 1993, to file comments (Order No. 20,848, May 25, 1993); and

WHEREAS, EnergyNorth Natural Gas, Inc. filed additional timely comments stating that the threshold load for special contracts is unfair as drafted and requesting that the electric threshold be raised to an energy equivalent of 1,000 MCF of natural gas or alternatively, that the electric and gas loads be equalized at some mutually agreeable level; and

WHEREAS, the Commission agrees with EnergyNorth concerning the threshold and has incorporated in the attached checklist a just and reasonable balance between natural gas and electricity based on equivalent levels of energy; and

WHEREAS, the Commission has reviewed the comments of the parties, has modified the draft checklist as appropriate, and believes the attached checklist conforms with the Commission findings in our October 19, 1992 decision in the Generic Discounted Rates docket (Report and Order No. 20,633); it is hereby

ORDERED, that the attached checklist is approved; and it is

FURTHER ORDERED, that any special contracts concerning economic development or business retention incorporate the guidelines of the checklist in order to streamline our review process.

By order of the New Hampshire Public Utilities Commission this twenty-third day of June, 1993.

CHECKLIST FOR ECONOMIC DEVELOPMENT AND BUSINESS RETENTION
DISCOUNTED RATES

On October 19, 1992 by Order No. 20,633, the Commission issued its decision in DR 91-172, the Generic Discounted Rates docket. The Commission found that its existing authority to review special contracts under RSA 378:18 is sufficient to proceed with economic development and business retention filings. Furthermore, the Commission identified and made general findings on many of the broad policy issues it confronted in the proceeding. It, then, directed Staff to develop a "checklist" of necessary information that could be used as a screen by utilities before filing special contracts and provided as information to the Commission to justify the reasonableness of the contract. Additionally, because the Commission will use its best efforts to complete all reviews expeditiously, which the Commission considers within 60 days from the filing date, the checklist will greatly enhance its ability to meet the 60 day timeframe.

All special contract filings for a discounted rate should document with a written explanation in the form of testimony and supporting exhibits that:

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- * a firm applying for a discount is pursuing or has received to the fullest extent possible all other appropriate forms of assistance, including but not limited to assistance for state and local financing and tax, training and relocation assistance, before or in conjunction with a special contract filing with this Commission.
- * the firm commits to participating in those utility Demand-Side Management programs for which it has qualified. The firm certifies that it has had an energy audit and the extent to which it has implemented or will implement the audit recommendations.
- * the rates being offered exceed the utilities projected long-run marginal costs over the length of the contract.
- * the utility's discounted rate offering is consistent with its integrated resource plan.
- * the discount does not have any apparent material adverse competitive consequences on other New Hampshire firms.
- * the firm is creating or retaining a specified number of jobs, or is materially enhancing its ability to create future jobs.
- * the new, expanded or retained load is at least 400 kW or more of billed demand, or 200,000 kWh of billed energy per month or use 650 MCF of natural gas per month, unless it can be demonstrated that lesser amounts are warranted.
- * the firm has obtained all applicable permits before the rate goes into effect.
- * the electrical or natural gas requirements of the customer are a significant portion of the customer's operating costs.
- * the special contract shall contain detailed terms and conditions, including the effective date, contract length, date of termination, definition of terms, notice of termination provisions, type and amount of service (*i.e.*, firm, interruptible, supplementary), metering and billing provisions, insurance and/or liability requirements, force majeure conditions and date of execution with titles, addresses and phone numbers of signatories.

It is important to remember that Special Contracts for Economic Development and Business Retention are *not* intended to be a tool to enhance the sponsoring utility's competitive position with respect to another utility's competitive position. Economic development and business retention efforts are concerned foremost with the economic effects of production and employment, and not with a firm's choice of the supplier of its energy needs. While discounts from tariffed rates may aid the State's utilities in retaining and/or expanding load that enhances the economic base of New Hampshire, such a pursuit is not furthered by deleterious in-State economic competition between utilities for existing customers.

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NH.PUC*06/24/93*[75121]*78 NH PUC 317*Public Service Company of New Hampshire

[Go to End of 75121]

Re Public Service Company of New Hampshire

DR 93-103

Order No. 20,883

78 NH PUC 317

New Hampshire Public Utilities Commission

June 24, 1993

Order *Nisi* Approving Special Contract NHPUC-89 between PSNH and Freudenberg - NOK General Partnership.

BY THE COMMISSION:

ORDER

On May 18, 1993, Public Service Company of New Hampshire (PSNH) filed a request for approval of a special contract, NHPUC-89, between PSNH and Freudenberg - NOK Limited Partnership (Freudenberg-NOK), on behalf of its Plastics Products Division located in Manchester, New Hampshire, effective January 1, 1994; and

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WHEREAS, PSNH's filing included testimony and exhibits supporting a discounted rate for Freudenberg-NOK in redacted form pending a Commission order granting approval of PSNH's Motion for Protective Order of certain information considered confidential in the Technical Statement; and

WHEREAS, PSNH filed an unredacted version of its Technical Statement on May 27, 1993 after the Commission granted PSNH's Motion for Protective Order (Order 20,851 on May 25, 1993); and

WHEREAS, Special Contract NHPUC-89 provides for rates of electric service lower than those otherwise available under applicable tariff Rate LG by modifying the MAXIMUM DEMAND provision of Rate LG such that all kW demand above specified levels (the incremental demand associated with Freudenberg-NOK's expanded investment at its facilities in Manchester) are excluded from the bill; and

WHEREAS, two different base demand levels - 2,050 kW for the months of June through October and 1,750 kW for all other months - are proposed based on the seasonality of Freudenberg-NOK's load; and

WHEREAS, PSNH estimates that the reduced billing demand will result in an overall rate decrease for the incremental load of approximately 23% per year for each year of the five years the special contract is effective; and

WHEREAS, PSNH states that the revenue received under Special Contract NHPUC-89 will exceed the marginal cost of serving Freudenberg-NOK during each year of the special contract; and

WHEREAS, both PSNH and Freudenberg-NOK assert that this special contract is necessary for Freudenberg-NOK's investment decision to locate additional, state-of-the-art production facilities in Manchester, New Hampshire; and

WHEREAS, PSNH claims that Special Contract NHPUC-89 meets the guidelines in the Commission Staff's draft checklist on Economic Development and Business Retention Special Contracts; and

WHEREAS, PSNH states that Special Contract NHPUC-89 will benefit PSNH and PSNH's other customers by the additional revenue contribution toward fixed costs, a portion of which will go to reduce the FPPAC rate; and

WHEREAS, upon review of the filing and the Staff recommendation, the Commission finds Special Contract NHPUC-89 meets the criteria we outlined in DR 91-172, the Generic Discounted Rates docket (Report and Order No. 20,633) as well as the Commission's Supplemental Order Approving the Final Checklist for Economic Development and Business Retention Special Contracts (Order No. 20,882, June 23, 1993), and is in the public good; it is hereby

ORDERED *Nisi*, that Special Contract NHPUC-89, a copy of which is attached to this order, between Public Service Company of New Hampshire and Freudenberg-NOK Limited Partnership is approved as filed for a period of five years effective January 1, 1994; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules, Puc 203.01, PSNH notify all persons desiring to be heard by causing an attested copy of this order to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than June 28, 1993, and documented by affidavit filed with this office on or before July 25, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than July 19, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective July 26, 1993 unless the

Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this twenty-fourth day of June, 1993.

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SPECIAL CONTRACT - ELECTRICITY

CONTRACT NO. NHPUC-89

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

WITH

FREUDENBERG-NOK GENERAL PARTNERSHIP

Date of Execution: April 20, 1993

Effective Date: January 1, 1994 Subject to NHPUC Approval

Date of Termination: Five years from Effective Date

STATEMENT OF THE SPECIAL CIRCUMSTANCES RENDERING DEPARTURE FROM GENERAL SCHEDULES JUST AND CONSISTENT WITH THE PUBLIC INTEREST

1. The service to be rendered under this agreement consists of the furnishing of an additional amount of electric service to Freudenberg-NOK at its Manchester, New Hampshire facility to serve increased production capacity at a price lower than would be otherwise provided under PSNH's applicable tariff rate.

2. In the absence of this agreement, Freudenberg-NOK has indicated that it would not increase its taking of service from PSNH because the increased production would be located outside of New Hampshire.

3. Locating the additional production capacity in Manchester will result in additional employment in New Hampshire.

4. This agreement has been designed to meet the specific needs of the customer while at the same time providing benefits for PSNH and its other customers. As a result of the innovative rate treatment embodied in this agreement, PSNH is able to obtain load which would not otherwise exist, and the revenue received from the sale of additional electricity to the customer under this agreement will help hold down rates charged to PSNH's other customers.

AGREEMENT BETWEEN FREUDENBERG-NOK GENERAL PARTNERSHIP, PLASTIC PRODUCTS DIVISION AND PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

This Agreement entered into this 20th day of April 1993, by and between Freudenberg-NOK General Partnership, a Delaware general partnership, on behalf of its Plastic Products Division, having a place of business in Manchester, New Hampshire (hereinafter referred to as "FNGP") and Public Service Company of New Hampshire, a New Hampshire corporation having its principal place of business in Manchester, New Hampshire (hereinafter referred to as "PSNH").

WITNESSETH

WHEREAS, FNGP is primarily engaged in the manufacture of plastic products at its Manchester, New Hampshire facility; and

WHEREAS, FNGP will be implementing a new manufacturing process called lost-core injection molding; and

WHEREAS, FNGP has represented and demonstrated to PSNH's satisfaction that a lower electric rate for this expansion is necessary in order for FNGP to locate its additional production capacity in Manchester; and - -

WHEREAS, PSNH has verified that the cost of electricity is a significant component of the total operating cost of the expanded production; and

WHEREAS, PSNH is willing and able to provide electricity to FNGP for its expanded production under the lower rates specified in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, FNGP and PSNH agree as follows: *Article 1 - Basic Understanding*

PSNH will furnish and FNGP will use electricity at its Plastic Products Division in

Page 319

Manchester in accordance with the provisions of this Agreement, and in accordance with the Terms and Conditions of the Tariff and the specific provisions of Large General Service Rate LG (Rate LG), or otherwise applicable rate schedule, except where specifically provided otherwise in this Agreement. This Agreement provides for prices for electric service lower than those otherwise available under Rate LG through a modification of the MAXIMUM DEMAND provision of Rate LG. Such modification excludes all kilowatt demand above specified levels from the determination of maximum demand for billing purposes. *Article 2 - Maximum Demand*

FNGP's maximum demand for billing purposes shall be the lesser of (a) the maximum demand determined under Rate LG, or (b) FNGP's Base Demand plus a Power Factor Adjustment. Base Demand shall be 2,050 kilowatts during the June through October billing cycles, and 1,750 kilowatts during all other billing cycles. The Power Factor Adjustment shall be equal to the following:

$PFA = A - B$, where

PFA = Power Factor Adjustment to be added to the Base Demand;

A = For the current monthly billing period, the greater of (1) the highest thirty minute kilovolt-ampere demand measured during on-peak hours, or (2) one-half of the highest thirty minute kilovolt-ampere demand measured during off-peak hours; and

B = For the current monthly billing period, the greater of (1) the highest thirty minute kilowatt demand measured during on-peak hours, or (2) one-half of the highest thirty minute kilowatt demand measured during off-peak hours.

In the event that FNGP fails to locate one or more lost-core injection molding "cells" in Manchester, or in the event that one or more such cells are located in Manchester and subsequently relocated outside of New Hampshire during the term of this Agreement, FNGP's

billing demand will be determined under Rate LG.

Article 3 - PSNH as Sole Supplier

FNGP shall not generate electricity for its own internal use (other than for emergency supply during service outages on PSNH's system), nor shall FNGP receive electricity from any supplier other than PSNH at FNGP's Plastic Products Division in Manchester during the term of this Agreement. *Article 4 - Conservation and Load Management*

FNGP agrees to continue to participate in conservation and load management programs offered by PSNH during the term of this Agreement. *Article 5 - Effective Date, Commencement Date and Contract Term*

This Agreement shall become effective between the parties on January 1, 1994 or as of the date upon which the New Hampshire Public Utilities Commission shall issue the requisite order approving the Agreement, whichever occurs later. The effectiveness of this Agreement is subject to its approval without conditions by the New Hampshire Public Utilities Commission.

The Commencement Date shall be the date of the beginning of the billing cycle associated with the first bill rendered hereunder after the effective date.

The term of this Agreement shall commence coincident with the Commencement Date and shall continue in full force and effect for a period of five years from the last day of the month in which the Commencement Date occurs, at which time the term shall end. *Article 6 - Assignment*

This Agreement shall not be assigned or transferred by either party without the prior written consent of the other party, which con-

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sent shall not be unreasonably withheld. Any purported assignment or transfer without such prior written consent shall be null and void.

Failure to respond to a request for assignment or transfer within 60 days of such request shall constitute consent to the requested assignment or transfer. *Article 7 - Applicable Law*

This Agreement shall be construed and interpreted in accordance with the laws of the State of New Hampshire. *Article 8 - Mailing Addresses*

The mailing addresses of the parties are as follows:

PSNH: Public Service Company of New Hampshire

P.O. Box 330

Manchester, New Hampshire 03105-0330

Attention: Marketing Division

FNGP: Freudenberg-NOK General Partnership

Grenier Industrial Air Park

Manchester, New Hampshire 03103

Attention: Robert C. Hange

With Copy To: Freudenberg-NOK General Partnership
47690 E. Anchor Ct.
Plymouth, Michigan 48170
Attention: Kenneth E. Anderson

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be duly executed and by the proper officials thereof who are duly authorized as of the signature and effective dates set forth herein.

FREUDENBERG-NOK GENERAL PARTNERSHIP

BY: /s/ Robert C. Hange Robert C. Hange Senior Vice President and General Manager /s/
Stephen R. Hall (Witness) DATE 4/20/93

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE BY: /s/ David H. Boguslawski
David H. Boguslawski TITLE: Vice President - Marketing and Administrative Services /s/
Stephen R. Hall DATE: 4/20/93

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NH.PUC*06/25/93*[75122]*78 NH PUC 321*Granite State Electric Company

[Go to End of 75122]

Re Granite State Electric Company

DR 93-088
Order No. 20,884
78 NH PUC 321

New Hampshire Public Utilities Commission

June 25, 1993

Report and Order Approving Modified Fuel Adjustment, Modified Oil Conservation
Adjustment, Qualifying Facility Rates and Franchise Tax Treatment.

Appearances: David J. Saggau, Esq. for Granite State Electric Company; James J. Cunningham,
Jr., Thomas C. Frantz and Eugene F. Sullivan, II for the Staff of the New Hampshire Public
Utilities Commission

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On June 1, 1993, Granite State Electric Company (Granite State) filed with the New
Hampshire Public Utilities Commission (Commission) a fuel adjustment of \$0.00767 per kWh

and an oil conservation adjustment of \$0.00120 per kWh for the period July 1, 1993 through December 31, 1993. These adjustments were further amended as a result of record requests, so that the amended request for the fuel adjustment is \$0.00757 per kWh. The oil conservation adjustment was amended to \$0.00116. All adjustments were requested to be effective as of July 1, 1993.

In addition, Granite State sought a qualifying facility (QF) energy rate at the sub-transmission distribution level of \$0.02806 per kWh

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on-peak and \$0.02246 per kWh off-peak and \$0.02506 per kWh on average for the second half of 1993. At the primary distribution level, Granite State sought a rate of \$0.03013 per kWh on-peak and \$0.02356 per kWh off-peak and \$0.02661 per kWh on average for the second half of 1993. For the secondary distribution level, Granite State proposed \$0.03120 per kWh on-peak and \$0.02356 per kWh off-peak and \$0.02740 per kWh on average for the second half of 1993.

Granite State proposed a capacity rate of \$2.24 per kW/month at the sub-transmission level, \$2.45 per kW/month at the primary distribution level and \$2.56 per kW/month at the secondary distribution level. The value of capacity used to determine Granite State's QF capacity payment is \$26.00 per kW/year and are based on the same methodology as applied in past years.

Granite State did not request change in its base rates for the reimposition of the Gross Receipts Franchise Tax (Franchise Tax).

By order of notice dated June 4, 1993, an evidentiary hearing was scheduled for June 16, 1993, and petitions for intervention due no later than June 14, 1993. There were no requests for intervention.

II. POSITIONS OF GRANITE STATE AND COMMISSION STAFF

A. *Granite State Electric Company*

Granite State witnesses testified that Granite State sought to stabilize changes in the fuel adjustments through the year caused by mismatches between sales and purchases by using the annual average ratio of kWh sales to purchases over the 12 month period July 1993 through June 1994. This approach brought the impact of the fuel adjustment, on the basis of a 500 kWh residential bill, from \$1.38 to \$1.02 per month. The oil conservation adjustment was developed using traditional calculations.

B. *Commission Staff*

The Staff did not submit prefiled testimony in this case but questioned the Granite State witnesses, urging use of historic data in developing the fuel adjustment for the upcoming period and urged similar modification of the oil conservation adjustment to reflect historic data and the stabilization of fluctuations as done in the fuel adjustment.

In response to record requests of the Staff, Granite State submitted calculations recommending use of a rolling average of five years' historic data. This change lowered the fuel adjustment factor to \$0.00757 per kWh, the oil conservation adjustment was reduced to \$0.00116. See Record Requests 1 and 2. Under the new proposal, the impact on an average 500

kWh residential bill would be a total of \$0.96 per month, as opposed to \$1.02 per month under the original proposal.

The Staff questioned whether the short term capacity value payment of \$26 per kW/year is lower than Granite State's previous filing. Granite State confirmed that the rate is slightly lower, down from \$27 per kW/year in the previous year, and clarified the calculations by which the QF rates were developed. The Staff confirmed with Granite State that its Franchise Tax obligations likely would be offset by its reduced Business Profits Tax liability.

III. COMMISSION ANALYSIS

After review of the testimony, we find Granite State's attempt to stabilize the fluctuations in rates to be appropriate, particularly in light of its agreement to use an extensive amount of historic data in developing its forecasts. We find the modified fuel adjustment of \$0.00757 and modified oil conservation adjustment of \$0.00116 contained within responses to Record Requests 1 and 2 to be reasonable and will approve them, effective July 1, 1993.

We also find the QF rates to be just and reasonable and will approve them as filed. However, we are concerned that the level of detail submitted as part of this filing may not be sufficient for thorough review. We will require, therefore, that the next fuel adjustment filing contain more detailed analysis of the transactions that yield the qualifying capacity rate. Finally, there will be no adjustment to base rates for recovery of the Franchise Tax

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during the period July through December, 1993.

Our order will issue accordingly.

Concurring: June 25, 1993

ORDER

Based upon the foregoing report, which is a part hereof; it is hereby

ORDERED, that a fuel adjustment of \$0.00757 proposed by Granite State Electric Company (Granite State) is hereby accepted and approved; and it is

FURTHER ORDERED, that an oil conservation adjustment of \$0.00116 proposed by Granite State is hereby accepted and approved; and it is

FURTHER ORDERED, that the qualifying facility rates for sub- transmission, primary distribution and secondary distribution as filed by Granite State are hereby accepted and approved; and it is

FURTHER ORDERED, that Granite State shall prepare a more detailed analysis of its qualifying capacity rate when it makes its next fuel adjustment clause filing; and it is

FURTHER ORDERED, that within ten days, Granite State shall file with the Public Utilities Commission tariff pages in accordance with the terms of this order.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of June, 1993.

=====

NH.PUC*06/25/93*[75123]*78 NH PUC 323*Kearsarge Telephone Company

[Go to End of 75123]

Re Kearsarge Telephone Company

DR 93-107
Order No. 20,885
78 NH PUC 323

New Hampshire Public Utilities Commission

June 25, 1993

Order Authorizing Approval of Public Access Line Service.

BY THE COMMISSION:

ORDER

On May 27, 1993, Kearsarge Telephone Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce Public Access Line (PAL) Service for effect June 29, 1993; and

WHEREAS, TDS's costs associated with programming local measured service for billing purposes are excessive; and

WHEREAS, the Company has proposed flat monthly rates because it seeks to avoid unnecessarily incurring such large expenses in the event the COCOT provider does not pursue the service long term; and

WHEREAS, the tariff pages proposed by Kearsarge Telephone Company will enable COCOT service to be provided in the Company's franchised service territory which the Commission finds is consistent with the public good; it is hereby

ORDERED, that the following tariff pages of Kearsarge Telephone Company are approved:

NHPUC - No. 7

Section 2, Original Sheet 3A

Section 2, Original Sheet 3B

and it is

FURTHER ORDERED, that the above tariff pages shall be effective as filed; and it is

FURTHER ORDERED, that the above additions to NHPUC No. 7 Tariff be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of June, 1993.

=====

NH.PUC*06/28/93*[75124]*78 NH PUC 324*New Hampshire Electric Cooperative, Inc.

[Go to End of 75124]

Re New Hampshire Electric Cooperative, Inc.

DR 93-110
Order No. 20,886
78 NH PUC 324

New Hampshire Public Utilities Commission

June 28, 1993

Power Cost Adjustment Filing.

Appearances: Broderick and Dean by Mark W. Dean, Esq. for the New Hampshire Electric Cooperative, Inc., Tom Frantz, Edwin Lebel and Chester Kokoszka on behalf of the Commission Staff.

BY THE COMMISSION:

Report and Order Approving Power Cost Adjustment Decrease

REPORT

I. PROCEDURAL HISTORY

On May 28, 1993, New Hampshire Electric Cooperative, Inc. (NHEC) filed with the New Hampshire Public Utilities Commission (Commission) testimony and exhibits requesting an adjustment of rates to reflect changes in fuel and purchased power costs, to be effective July 1, 1993. The Commission issued an Order of Notice on June 4, 1993, scheduling a hearing on the merits before a hearings examiner for June 22, 1993.

Testimony was presented by Teresa L. Muzzey, Rates and Finance Manager for NHEC, before Hearings Examiner Eugene F. Sullivan, III on June 22, 1993 as scheduled. There were no intervenors.

II. POSITIONS OF NHEC AND STAFF

A. *New Hampshire Electric Cooperative*

Ms. Muzzey testified that NHEC is requesting a Power Cost Adjustment (PCA) rate of \$0.00119 per kWh, a decrease of \$0.00643 per kWh from the currently effective rate of \$0.00762 per kWh. The rate reduction proposed would result in a decrease of average revenue per kWh by 5 percent, approximately. The proposed PCA will be effective for the period July 1, 1993 through December 31, 1993 on a bills rendered basis.

NHEC testified that the \$0.00643 per kWh downward adjustment in the PCA is due to a

decrease in the wholesale purchased power costs NHEC purchases from Public Service Company of New Hampshire (PSNH), NHEC's supplier of over 90 percent of its power needs, and an expected over-recovery from the current period of \$2,007,621. NHEC expects to purchase \$22,832,820 of power during the upcoming PCA period. The over-recovery reduces those expected power costs to \$20,825,199, which divided by the forecasted sales for the period of 274,560,000 kWhs results in a rate of \$0.07585 per kWh. The amount of purchased power in base rates is \$0.07466 per kWh. Subtracting the power cost in base rates, \$0.07466 per kWh, from the rate necessary to recover power costs for the upcoming six- month period, \$0.07585 per kWh, yields the new PCA rate of \$0.00119 per kWh.

NHEC stated that a typical 500 kWh residential bill, currently \$65.76 will decrease to \$62.55 after the \$0.00119 per kWh PCA factor becomes effective. The PCA decrease does not reflect any changes that may take place as a result of the recovery of the franchise tax which was reinstated by passage of HB 53 — FN-A.

B. *Commission Staff*

Staff did not present testimony, but questioned Ms. Muzzey regarding the sales forecast in NHEC's filing, line losses, as well as how NHEC's power costs were estimated for the upcoming PCA period. Staff was especially concerned that a discrepancy in the proposed rate could occur because PSNH estimates its sales and costs to NHEC without regard to what NHEC is forecasting for retail sales for the same period. The discrepancy could result in NHEC having higher or lower costs and therefore a larger under-recovery or over-recovery during the period than what was anticipated in rates.

III. COMMISSION ANALYSIS

We have reviewed the testimony of Ms. Muzzey and find the request to decrease the

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PCA rate from \$0.00762 per kWh to \$0.00119 per kWh is reasonable and in the public interest. We will also direct NHEC to work with PSNH to avoid any potential problems that Staff has indicated are possible by having a retail sales forecast that may include a level of sales unknown or unanticipated by its wholesale provider of power.

Our order will issue accordingly.

Concurring: June 28, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that New Hampshire Electric Cooperative's proposal to decrease the Power Cost Adjustment rate from \$0.00762 per kWh to \$0.00119 per kWh effective July 1, 1993 through December 31, 1993, be approved; and it is

FURTHER ORDERED, that NHEC file compliance tariff pages within 10 days from the issuance date of this Order.

By order of the Public Utilities Commission of New Hampshire this June 28, 1993.

=====

NH.PUC*07/01/93*[75125]*78 NH PUC 325*Connecticut Valley Electric Company

[Go to End of 75125]

Re Connecticut Valley Electric Company

DR 93-093
Order No. 20,887
78 NH PUC 325

New Hampshire Public Utilities Commission

July 1, 1993

Approval of the stipulation agreement for base rate increase for post-retirement benefits other than pensions.

APPEARANCES: Kenneth C. Picton, Esquire for the Connecticut Valley Electric Company;
Amy Ignatius, Esquire for the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On May 14, 1993, Connecticut Valley Electric Company ("CVEC" or "Company") filed revised tariff pages and on May 19, 1993, the Company filed testimony and exhibits. The purpose of these filings was to increase base rates by \$136,747, or 0.9%, effective on bills rendered on or after July 1, 1993. The increase is based on (1) the Company's change in accounting for post-retirement benefits other than pensions (net of pay-as-you-go costs) computed in accordance with the NHPUC Order No. 20,806 in Docket DA 92-199 and (2) the change in the imposition of the New Hampshire Franchise Tax, net of business profits tax and associated write-downs of accumulated deferred state income taxes.

An Order of Notice was issued on June 15, 1993, setting a hearing date for June 24, 1993.

On June 21, 1993, the Company filed a revised proposal as a result of discussions with the Commission staff. The Company's revised proposal seeks a smaller increase to base rates of \$127,122, or 0.8%, effective on bills rendered on or after July 1, 1993. The revision is based on an amortization period of five years for the write-down of New Hampshire accumulated deferred income taxes.

II. STIPULATION AGREEMENT

The Company and Staff entered into a stipulation agreement to increase test year revenues by a total of \$127,122 which, in turn, would increase Conservation & Load Management Adjustment (C&LMPA) revenues by \$2,955 to result in a total revenue increase of \$130,077 as

follows:

Post-retirement benefits other than pensions will increase \$18,458. This increase is net of pay-as-you-go costs and is computed in accordance with NHPUC Order number 20,806 in Docket DA 92-199. In addition, the Company and the Staff agree to amortize Accumulated Deferred State Income Taxes (ADIT) over a 5-year period. The result is to decrease test year revenues by \$15,164.

Since the Franchise Tax, which was recently re-implemented, is allowed as a credit against the Business Profits Tax, the Business Profits Tax liability is fully offset. The result is to decrease test year revenues by \$36,069, the amount of business profits taxes included in test year expenses.

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The State of New Hampshire recently re-enacted the 1% Franchise Tax on electric utilities effective May 1, 1993. The result is to increase test year revenues by \$159,897.

In summary, the stipulation agreement provides for total revenue adjustments of \$127,122, excluding C&LMPA revenue increases. The Company is allowed to recover C&LMPA costs as a percentage of revenues in accordance with Docket DR 92-013. Therefore, since revenues are revised, C&LMPA recovery, likewise, is revised. This results in an increase to test year revenues of \$2,995 for C&LMPA which will be included in the annual reconciliation. The grand total of all revenue adjustments is \$130,077.

The Company will increase each base rate component of each rate class by 0.8%. The impact of these changes, on the basis of a 500 kWh monthly residential bill is roughly \$.46 per month. The Company proposes to reflect the franchise tax cost in the FAC, PPCA and C&LMPA reconciliations as of July 1, 1993, the proposed effective date of this increase in base rates and base energy and capacity charges.

III. COMMISSION ANALYSIS

After review of the testimony, we find Connecticut Valley's computation of the increase associated with cost of post-retirement benefits other than pensions and New Hampshire Franchise Taxes, net of Business Profits Tax and write-downs of accumulated deferred income taxes, to be appropriate particularly in light of its agreement to use a 5-year amortization of accumulated deferred state income taxes. Furthermore, upon consideration of the above changes proposed by the company, Connecticut Valley estimates that it will earn approximately a 6.1% rate of return on average common equity for 1993, based on actual year-to-date data and forecasted May through December 1993 revenues and costs. Therefore, we find the stipulation agreement to be just and reasonable and will approve it as filed.

Our order will issue accordingly.

Concurring: July 1, 1993

ORDER

In consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that the Stipulation Agreement appended hereto as Attachment A is approved in

its entirety effective for bills rendered on July 1, 1993; and it is

FURTHER ORDERED, that Connecticut Valley Electric Company file a compliance tariff by July 12, 1993.

By order of the New Hampshire Public Utilities Commission this first day of July, 1993.

Stipulation available in Commission Files.

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NH.PUC*07/01/93*[75126]*78 NH PUC 326*Granite State Electric Company

[Go to End of 75126]

Re Granite State Electric Company

DR 92-084

DA 92-199

Order No. 20,888

78 NH PUC 326

New Hampshire Public Utilities Commission

July 1, 1993

Order Approving Rate Adjustment for Postretirement Benefits Other than Pensions.

BY THE COMMISSION:

ORDER

WHEREAS, in December 1990, the Financial Accounting Standards Board (FASB) released its Statement of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other than Pensions (PBOP); and

WHEREAS, the standard applies to all companies that prepare financial statements in accordance with generally accepted accounting principles (GAAP), i.e., all publicly traded companies and others whose lenders require financial statements; and

WHEREAS, the standard is effective for fiscal years beginning after December 15, 1992, to all companies who have more than 500 plan participants; and

WHEREAS, Granite State Electric Company (Granite State) was a signatory to a Stipulation Agreement approved by the Commission on April 5, 1993, in docket No.

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DR 92-199 which set forth the accounting and ratemaking treatment for postretirement benefits other than pensions; and

WHEREAS, on May 14, 1993 Granite State filed tariff sheets reflecting the implementation of the FAS 106 expenses in compliance with Order No. 20,806 in docket DA 92-199; and

WHEREAS, Order No. 20,806 provided that the incremental PBOP expense over the previous pay-as-you-go method could be recovered in rates effective July 1, 1993; and

WHEREAS, the incremental expense for the period January 1, 1993 through June 30, 1993 was to be deferred and recovered over five years commencing July 1, 1993; and

WHEREAS, Granite State filed schedules detailing the calculation of the incremental PBOP expense in the amount of \$771,000, comprised of an annual increment of \$701,000 and amortization of the deferred amount of \$70,000 over five years; and

WHEREAS, as a result of discussions with Staff and the consumer advocate, Granite State filed revised tariff pages with a revised rate design; it is hereby

ORDERED, that Granite State is authorized to increase rates by \$771,000 or 1.23%, to provide for the implementation of FAS 106 Post Retirement Benefits Other than Pensions, as approved by Order No. 20,806 in Docket No. DA 92-199; and it is

FURTHER ORDERED, that Granite State shall implement the rates submitted in the revised compliance filing dated June 18, 1993 for all service rendered on or after July 1, 1993, and it is

FURTHER ORDERED, that external funding of these costs shall be handled by an independent trustee and that deposits to such irrevocable trust funds shall be made on a quarterly basis; and it is;

FURTHER ORDERED, that the irrevocable external trust fund shall be allowed to make payment from its assets for the following reasons:

- A) Employee Benefit Payments
- B) Expenses of the Trust
- C) Commission Approved Customer Refund Plan

By order of the New Hampshire Public Utilities Commission this first day of July, 1993.

=====

NH.PUC*07/01/93*[75127]*78 NH PUC 327*Hampton Water Works Company

[Go to End of 75127]

Re Hampton Water Works Company

DR 93-096
Order No. 20,889
78 NH PUC 327

New Hampshire Public Utilities Commission

July 1, 1993

Order Establishing Appropriate Accounting and Ratemaking Treatment for Post Retirement Benefits Other Than Pensions (PBOB) FAS 106 as Regards Hampton Water Works, Co.

BY THE COMMISSION:

ORDER

WHEREAS, in December 1990, the Financial Accounting Standards Board (FASB) released its Statement of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other than Pensions (PBOP); and

WHEREAS, the standard applies to all companies that prepare financial statements in accordance with generally accepted accounting principles (GAAP), i.e., all publicly traded companies and others whose lenders require financial statements; and

WHEREAS, the standard is effective for fiscal years beginning after December 15, 1992, to all companies who have more than 500 plan participants, which makes it applicable to Hampton Water Works Company; and

WHEREAS, Hampton Water Works was a signatory to a Stipulation Agreement which was approved in Docket No. DA 92-199, which set forth the accounting and ratemaking treatment for postretirement benefits other than pensions; and

WHEREAS, said stipulation contained in part the following provisions:

- 1) Utilities shall be allowed to recognize in rates the full accrual of PBOP expenses consistent with the accounting principles set forth in FAS 106.
- 2) The Accumulated postretirement Benefit Obligation portion of the

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FAS 106 liability shall be amortized over a 20 year period.

3) The utilities, which includes Hampton Water Works Company have agreed to utilize irrevocable external trusts for PBOP funding.

4) Said irrevocable trust fund, being set up through Hampton Water Works Company's parent, American Water Works, Inc., will be managed by an independent trustee, with Hampton Water Works making quarterly deposits to said trust fund; and

WHEREAS, a meeting was held on June 25, 1993 at the Public Utilities Commission office, between the New Hampshire Public Utilities Staff and Hampton Water Works Company representatives to finalize Hampton Water Works Company's FAS 106 filing requirements; and

WHEREAS, the company has submitted the required documentation to support its projected SFAS 106 expense, and its Accumulated Postretirement Benefit Obligation (APBO) and that said APBO shall be amortized over a 20 year period; and

WHEREAS, the deferred costs accumulated by the company between January 1, 1993, the date of adoption of SFAS 106 and June 30, 1993, the date of implementation, will be amortized

over a five year period beginning July 1, 1993, and ending June 30, 1998; and

WHEREAS, external funding of these costs will be handled by an independent trustee, through Hampton's parent company, American Water Works, Inc. and that said deposits to such irrevocable trust fund will be made on a quarterly basis; and

WHEREAS, the irrevocable external trust fund will be allowed to make payments from its assets for only the following reasons:

- A) Employee Benefit Payments.
- B) Expenses of the Trust.
- C) Commission Approved Customer Refund Plan.

WHEREAS, Hampton Water Works Company will increase water rates by \$60,167 as of July 1, 1993, and will amend its tariffs accordingly; it is hereby

ORDERED, that Hampton Water Works Company is authorized to increase rates by \$60,167, or 2.1% to provide for the implementation of FAS 106 as approved by Order No. 20,806 in Docket DA 92-199; and it is

FURTHER ORDERED, that Hampton Water Works shall implement the revised tariff pages filed on June 30, 1993, for all service rendered on or after July 1, 1993; and it is

FURTHER ORDERED, that external funding of these costs shall be handled by an independent trustee and that deposits to such irrevocable trust funds shall be made on a quarterly basis; and it is;

FURTHER ORDERED, that payments from the irrevocable external trust fund shall be allowed for the purposes described in the report and order in DA 92-199;

By order of the New Hampshire Public Utilities Commission this first day of July, 1993.

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NH.PUC*07/01/93*[75128]*78 NH PUC 328*New Hampshire Electric Cooperative, Inc.

[Go to End of 75128]

Re New Hampshire Electric Cooperative, Inc.

DR 93-091
Order No. 20,890
78 NH PUC 328

New Hampshire Public Utilities Commission
July 1, 1993

Report and Order Approving Franchise Tax Recovery Mechanism.

Appearances: Broderick and Dean by Mark W. Dean, Esq. for the New Hampshire Electric Cooperative, Inc., Eugene F. Sullivan, Jr., Edwin P. LeBel and Chester Kokoszka on behalf of the Commission Staff.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On May 10, 1993, New Hampshire Electric Cooperative, Inc. (NHEC) filed with

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the New Hampshire Public Utilities Commission (Commission) A Petition to reinstitute Franchise Tax recovery mechanism. On May 28, 1993, NHEC filed revision to tariff pages 1, 19b, 19c 20, 21, 24, 26, 27, 30, 31, 32, 33, 34, 36, 39, 44 and 45 to NHPUC No. 15 -

Electricity and testimony and exhibits relative to the reinstatement of the Franchise Tax, to be effective July 1, 1993. The Commission issued an Order of Notice on June 8, 1993, scheduling a hearing on the merits before a hearings examiner for June 22, 1993. On June 18, 1993 NHEC submitted supplemental testimony on the effect of not reinstating the Franchise Tax on NHEC's rate of return.

Testimony was presented by Teresa L. Muzzey, Rates and Finance Manager for NHEC, before Hearings Examiner Eugene F. Sullivan, III on June 22, 1993 as scheduled. There were no intervenors.

II. POSITIONS OF NHEC AND STAFF

A. *New Hampshire Electric Cooperative*

Ms. Muzzey testified that NHEC is requesting the reimposition of the Franchise Tax by increasing all rates by a factor of 1.010101% and for a temporary surcharge recovery for a six month period to recover the Franchise Tax which was not recovered through rates for the months of May and June 1993. This surcharge would be \$0.00038/kWh. The rate increase proposed would result in a average increase revenue per kWh by 1.01%. The proposed temporary surcharge would be effective for the period July 1, 1993 through December 31, 1993 on a bills rendered basis.

In Ms. Muzzey's supplemental testimony she stated that NHEC's rate of return as of December 31, 1992 on a proforma basis was 8.15% with a TIER coverage of 1.19. These schedules were prepared in conjunction with a rate case for which NHEC has submitted a notice of intent (DR 93-124).

B. *Commission Staff*

Staff questioned Ms. Muzzey regarding the need for the recoupment of the Franchise Tax for May and June of 1993. NHEC does not have a business profits tax offset because it is a non-profit organization. Staff also questioned Ms. Muzzey on the calculation of the Franchise Tax for the months of May and June to insure that only electric sales revenues were in the calculation. Staff further questioned Ms. Muzzey on the calculation of the rate of return and

TIER coverage and confirmed that these calculations were based on a December 31, 1992 test year and that all revenues were proformed to account for rate increases granted in 1992. Through cross examination and the direct testimony by Ms. Muzzey it was shown that NHEC is not over earning on rate base or on its TIER coverage. In fact, based on the proformed test year, NHEC's TIER coverage is one basis point over the projection of TIER found reasonable by the Commission for NHEC in DR 92-009.

III. COMMISSION ANALYSIS

We have reviewed the testimony of Ms. Muzzey and find the request to reinstitute the Franchise Tax by a factor of 1.010101% to rates and the imposition of a temporary surcharge of \$0.00038 per kWh for the six month period from July 1, to December 31, 1993 to be reasonable in light of the charges to the Franchise Tax and reimposition of the tax in rates to be in the public interest.

Our order will issue accordingly.

Concurring: July 1, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that New Hampshire Electric Cooperative, Inc.'s proposal to reinstitute the Franchise Tax by applying a factor of 1.010101% to rates be approved; and it is

FURTHER ORDERED, that the Temporary Surcharge of \$0.00038 per kWh to recover the Franchise Tax for the months of May and June of 1993 over the period, effective from July 1, 1993 through December 31, 1993, be approved; and it is

FURTHER ORDERED, that NHEC file compliance tariff pages within 10 days from the date of this Order.

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By order of the Public Utilities Commission of New Hampshire this first day of July, 1993.

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NH.PUC*07/01/93*[75129]*78 NH PUC 330*Public Service Company of New Hampshire

[Go to End of 75129]

Re Public Service Company of New Hampshire

DE 93-127

Order No. 20,891

78 NH PUC 330

New Hampshire Public Utilities Commission

July 1, 1993

Order Approving Revised Service Area Descriptions.

BY THE COMMISSION:

ORDER

On June 21, 1993 Public Service Company of New Hampshire (PSNH) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to revise the description of the Company's operating divisions; and

WHEREAS, PSNH recently completed reorganization of the Company's division operations thereby reducing the number of operating divisions from four to three; and

WHEREAS, there has been a realignment of the towns served by each division; and

WHEREAS, no changes are proposed in the overall service territory currently served; it is hereby

ORDERED, that the following tariff pages of Public Service Company of New Hampshire, Tariff

NHPUC No. 34 - Electricity

1st Revised Pages 3, 4 and 5

are hereby approved.

By order of the New Hampshire Public Utilities Commission this first day of July, 1993.

=====

NH.PUC*07/01/93*[75130]*78 NH PUC 330*New England Telephone

[Go to End of 75130]

Re New England Telephone

DR 93-122

Order No. 20,892

78 NH PUC 330

New Hampshire Public Utilities Commission

July 1, 1993

Order Suspending Tariffs for 800 Call Management Features.

BY THE COMMISSION:

ORDER

On June 7, 1993 New England Telephone (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce 800 Call Management Features for effect July 7, 1993; and

WHEREAS, the proposed rates and accompanying cost support submitted by the Company require further investigation by Staff; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 75

Part A

Section 10 - Seventh Revision of Table of Contents

Eighth Revision of Page 4

Third Revision of Pages 7, 8 and 9

Original Pages 10, 11 and 12

are suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this first day of July, 1993.

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NH.PUC*07/01/93*[75131]*78 NH PUC 331*Pennichuck Water Works, Inc.

[Go to End of 75131]

Re Pennichuck Water Works, Inc.

DR 91-220

Order No. 20,893

78 NH PUC 331

New Hampshire Public Utilities Commission

July 1, 1993

Suspension Order.

BY THE COMMISSION:

ORDER

On June 2, 1993 Pennichuck Water Works, Inc. (Pennichuck) filed a proposed rate case expense report and Tariff Pages 36 and 36A for the Maple Haven Community Water System located in Derry, New Hampshire; and

WHEREAS, Pennichuck requested \$9,821.58 in rate case expense for the period December 31, 1991 through May 25, 1993; and

WHEREAS, on June 10, 1993 Pennichuck filed a First Revised Tariff Page 36A; and

WHEREAS, revised tariff pages are not accepted for action by the Commission until original tariff pages have been acted upon; and

WHEREAS, Original Tariff Page 36 is consistent with Order No. 20,808; and

WHEREAS, staff has not completed its review and investigation of Tariff Page 36A; it is hereby

ORDERED, that NHPUC No. 4 Tariff Page for Maple Haven Community Water System, Original Page 36A is hereby suspended.

By order of the New Hampshire Public Utilities Commission this first day of July, 1993.

=====

NH.PUC*07/01/93*[75135]*78 NH PUC 334*Integrated Water Systems, Inc.

[Go to End of 75135]

Re Integrated Water Systems, Inc.

DF 93-129

Order No. 20,897

78 NH PUC 334

New Hampshire Public Utilities Commission

July 1, 1993

Order Granting Authority to Issue and Deliver Note and Grant Mortgage and Other Security Interests.

BY THE COMMISSION:

ORDER

On June 10, 1993, the Commission issued Report and Order No. 20,865 in DE 93-084 authorizing the Company to engage in business as a public utility, to purchase the assets of Locke Lake Water Company, Inc., and to serve the customers in that franchise area; and

WHEREAS, on June 23, 1993, Integrated Water Systems, Inc. (the Company) filed with the New Hampshire Public Utilities Commission (the Commission) a petition seeking to finance a portion of the acquisition cost of the Locke Lake Water Company, Inc. (Locke Lake); and

WHEREAS, the proposed financing is in the form of a promissory note in the amount of \$125,000 (the Note) to Community Bank & Trust Company, a New Hampshire banking corporation located in Wolfeboro, New Hampshire; and

WHEREAS, the terms of the Note are as follows: (i) the rate of interest is variable, and will be 4.75% above the two year Certificate of Deposit rate of the Bank rounded up to the nearest 1/4%, changing every two years with changes in said rate, with an initial rate of 9.00%; (ii)

monthly payments of interest and principal will be \$1,423.01; (iii) the term of the Note is 12 years; (iv) the Note is to be secured by (a) a first mortgage on certain real property located in Barnstead, New Hampshire, which property the Company will receive as part of the acquisition of Locke Lake, and (b) a first lien on all equipment and machinery owned or later acquired by the Company, and on all receivables and proceeds of the collateral; and

WHEREAS, the proposed financing was contemplated by the Company at the time of the hearing on DE 93-084, at which the Staff of the Commission had no objection to the purchase; and

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WHEREAS, the proposed financing will result in a lower overall capital expense to the Company, benefitting the Company's financial structure and, thereby, the Company's customers; and

WHEREAS, after review and consideration we find that the proposed financing is in the public good; it is hereby

ORDERED, pursuant to RSA 369:1, that the Company is authorized to issue and deliver the Note; and it is

FURTHER ORDERED, pursuant to RSA 369:2, that the Company is authorized to grant the Security Interests.

By order of the New Hampshire Public Utilities Commission this first day of July, 1993.

=====

NH.PUC*07/02/93*[75132]*78 NH PUC 331*ATC New Hampshire, Inc.

[Go to End of 75132]

Re ATC New Hampshire, Inc.

DE 93-113
Order No. 20,894
78 NH PUC 331

New Hampshire Public Utilities Commission
July 2, 1993

Order *Nisi* Approving the Addition of "The Answer", an OnLine Rate Schedule and Clarification of the 800 Service.

BY THE COMMISSION:

ORDER

On June 14, 1993 ATC New Hampshire, Inc., (ATC) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to add a new competitive service "The Answer" and also to clarify the 800 service and features; and

WHEREAS, ATC added a new OnLine rate schedule for customers that choose to have an operator place a call for them; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, staff has investigated this matter and upon review the Commission finds that the public should be offered an opportunity to respond in support of, or in opposition to said changes; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than July 28, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, ATC cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than July 13, 1993 and is to be documented by affidavit filed with this office on or before July 30, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of ATC New Hampshire, Inc. Tariff PUC No. 1 are approved:

3rd Revised Page No. 1.1
2nd Revised Page No. 3
1st Revised Page No. 3.1
2nd Revised Page No. 29
1st Revised Page No. 29.1
1st Revised Page No. 29.2
Original Page No. 29.3
1st Revised Page No. 30
1st Revised Page No. 35
2nd Revised Page No. 37
1st Revised Page No. 31
1st Revised Page No. 37.1
1st Revised Page No. 37.2
1st Revised Page No. 37.3
1st Revised Page No. 40

Original Page No. 40.1
 Original Page No. 40.2
 Original Page No. 40.3
 Original Page No. 40.4
 Original Page No. 40.5;

and it is

FURTHER ORDERED, that ATC file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this second day of July, 1993.

=====

NH.PUC*07/02/93*[75133]*78 NH PUC 332*Investigation into 1992 Energy Policy Act Requirements

[Go to End of 75133]

Re Investigation into 1992 Energy Policy Act Requirements

DE 93-071
 Order No. 20,895
 78 NH PUC 332

New Hampshire Public Utilities Commission

July 2, 1993

Order Denying Granite State Hydropower Association's Motion for Reconsideration of Request for Leave to File Memorandum of Law.

BY THE COMMISSION:

ORDER

The Granite State Hydropower Association (GSHA), having filed on June 18, 1993, a Motion for Reconsideration of Request for Leave to File Memorandum of Law on Behalf of its Members; and

WHEREAS, GSHA did not assert in its Motion for Reconsideration any errors of law nor did it present any facts which were not previously addressed, or which could not have been

addressed, in GSHA's Motion for Leave to Object to Certain Data Requests filed on June 14, 1993; and

WHEREAS, by Order No. 20,871, issued on June 15, 1993, the Commission granted GSHA's Motion for Leave to Object to Certain Data Requests, thereby accepting the Motion and the pleadings contained therein as GSHA's objection to various data requests propounded by the Commission Staff, but denied GSHA's request for leave to file an additional Memorandum of Law; and

WHEREAS, among the reasons cited by the Commission in Order No. 20,871 for denying GSHA's request for leave to file an additional Memorandum of Law was the need to expeditiously resolve the issues raised in the docket in order to meet the requirements of the Energy Policy Act of 1992 to issue a decision herein by October 24, 1993; it is hereby

ORDERED, that the Motion for Reconsideration of Request for Leave to file Memorandum of Law on Behalf of Members of GSHA, filed on June 18, 1993, is denied.

By order of the New Hampshire Public Utilities Commission this second day of July, 1993.

=====

NH.PUC*07/02/93*[75134]*78 NH PUC 332*Concord Electric Company

[Go to End of 75134]

Re Concord Electric Company

DR 93-111

Order No. 20,896

Re Exeter & Hampton Electric Company

DR 93-112

Order No. 20,896

78 NH PUC 332

New Hampshire Public Utilities Commission

July 2, 1993

Report and Order Conditionally Approving Base Rate Adjustments for Franchise Tax.

Appearances: LeBoeuf, Lamb, Leiby and MacRae by Scott J. Mueller, Esq. for Concord Electric Company and Exeter and Hampton Electric Company; Amy L. Ignatius, Esq. for the Staff of the New Hampshire Public Utilities Commission

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On April 30, 1993, Concord Electric Company (Concord Electric) and Exeter & Hampton Electric Company (Exeter &

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Hampton) (collectively known as UNITIL) notified the New Hampshire Public Utilities Commission (Commission) of their intent to file for a rate change to reflect changes in the gross receipts franchise tax (Franchise Tax) and the change in liability for the Business Profits Tax (BPT). On June 1, 1993, UNITIL filed revised tariff pages to implement the recovery of the Franchise Tax and elimination of BPT liability. The adjustments were requested to be effective as of July 1, 1993.

By order of notice dated June 7, 1993, an evidentiary hearing was scheduled for June 17, 1993; petitions for intervention were due no later than June 15, 1993. There were no requests for intervention. The Commission heard evidence in the matter on June 17, 1993. UNITIL and the Staff filed briefs on June 23, 1993.

II. POSITIONS OF UNITIL AND COMMISSION STAFF

A. UNITIL

UNITIL seeks to change base rates in order to recover the newly reimposed Franchise Tax without undergoing a full rate case. The Franchise Tax of 1% of gross sales of electricity and gas was authorized as an automatic adjustment on individual rates in 1983, without full rate cases for the gas and electric utilities affected. UNITIL argues that because the Commission authorized imposition of the Franchise Tax in base rates and then removal of the tax when it was repealed in 1991 without full rate cases, the Commission should now allow inclusion of the tax in base rates to be consistent.

B. Commission Staff

The Staff argues that UNITIL should not recover the Franchise Tax through an increase in base rates, unless it undergoes a full rate case, and that the Commission's treatment of the matter in prior years shouldn't bind it for all time. Under cross examination, UNITIL testified that the deferred BPT would flow to the bottom line and to the stockholders in the current year. In the alternative, therefore, the Staff recommended that UNITIL delay implementation of base rate adjustments for Franchise Tax recovery until the accumulated deferred BPT amounts had been returned to ratepayers.

III. COMMISSION ANALYSIS

UNITIL is correct in noting that the Franchise Tax was first imposed and then removed for electric companies without full rate cases, though we agree with the Staff that prior treatment of a matter should not bind our hand in future cases. We are concerned, however, that the costs to recover this relatively small amount could be enormous, and for that reason we will reject the Staff's recommendation that no recovery be allowed outside of a complete rate investigation.

We find merit in the Staff's alternative recommendation, however, that the implementation of the Franchise Tax in base rates be delayed until the deferred tax excess is offset by each company's Franchise Tax expense. As Staff argued in its brief, UNITIL has booked deferred

taxes for the Business Profits Tax since the Franchise Tax was repealed on July 1, 1991. Deferred taxes, therefore, have been included as an expense on both of the UNITIL companies' income statements since the repeal of the Franchise Tax. In effect, excess deferred taxes have been created since the Franchise Tax was re-established effective May 1, 1993. These deferred taxes amount to \$73,179 for Concord Electric and \$34,277 for Exeter & Hampton Electric. *See* Exhibit 2, GRFT 4.

We will approve Staff's recommendation that Concord Electric delay inclusion of the Franchise Tax in base rates until September 1, 1993, when, according to Staff's brief, the excess will have been offset. We will approve Staff's recommendation that Exeter & Hampton delay inclusion of the Franchise Tax in base rates until August 1, 1993, when, according to Staff's brief, the excess will have been offset.

We must make one cautionary note. We reach this decision to allow an adjustment to base rates outside of the rate case process reluctantly, and heed those who come before us not to interpret our ruling as a departure from

Page 333

our general rule that changes in expenses or liabilities should not cause an adjustment in base rates outside of the normal rate case process. We have agreed to adjust base rates in this particular case, however, in the interest of avoiding a cumbersome and costly proceeding, the cause of which is not an action taken by UNITIL but instead is a change in the Franchise Tax.

Our order will issue accordingly.

Concurring: July 2, 1993

ORDER

Based upon the foregoing report, which is a part hereof; it is hereby

ORDERED, that base rate adjustments for Concord Electric Company (Concord Electric) and Exeter & Hampton Electric Company (Exeter & Hampton) to allow recovery of the reimposed Franchise Tax is just and reasonable and is hereby approved as limited by the foregoing report; and it

FURTHER ORDERED, that Concord Electric be allowed to implement a base rate adjustment for the Franchise Tax liability incurred as of September 1, 1993; and it is

FURTHER ORDERED, that Exeter & Hampton be allowed to implement a base rate adjustment for the Franchise Tax liability incurred as of August 1, 1993; and it is

FURTHER ORDERED, that Concord Electric and Exeter & Hampton shall file with the Commission revised tariff pages at least five days prior to the respective implementation dates of the base rate adjustments approved herein.

By order of the New Hampshire Public Utilities Commission this second day of July, 1993.

=====

NH.PUC*07/02/93*[75136]*78 NH PUC 335*Concord Electric Company

[Go to End of 75136]

Re Concord Electric Company

DR 93-079
Order No. 20,898

Re Exeter & Hampton Electric Company

DR 93-081
Order No. 20,898

78 NH PUC 335

New Hampshire Public Utilities Commission

July 2, 1993

Fuel Adjustment Clause and Purchased Power Adjustment Clause Order Setting Fuel Adjustments, Purchase Power Adjustments and Short-Term Power Purchase Adjustments.

BY THE COMMISSION:

ORDER

Based upon the forthcoming report which is incorporated by reference herein, it is hereby ORDERED, that the Concord Electric Co. Fuel Adjustment Charge for the period of July through December, 1993, shall be a credit of \$0.00665 per kWh; and it is

FURTHER ORDERED, that for the period July through December, 1993, the Concord Electric Co. Purchased Power Adjustment Clause shall be \$0.00745 per kWh; and it is

FURTHER ORDERED, that for the period July through December 1993, the Exeter & Hampton Electric Co. Fuel Adjustment Charge shall be a credit of \$0.00673 per kWh; and it is

FURTHER ORDERED, that for the period July through December 1993 the Exeter & Hampton Electric Co. Purchases Power Adjustment Clause shall be \$0.00690 per kWh; and it is

FURTHER ORDERED, that for the same period, Concord Electric Co. and Exeter & Hampton Electric Co. short-term power purchase (short-term avoided capacity and energy) rates for Qualifying Facilities (QFs) shall be as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Energy Rates	On Peak	3.40 cents per kWh
	Off Peak	2.47 cents per kWh
	All Hours	2.79 cents per kWh
	Capacity Rate	\$0.00 per kW-year; and it is

FURTHER ORDERED, that Concord Electric Co. and Exeter & Hampton Electric Co. file revised tariff pages in compliance with this order and bearing the appropriate annotation.

By order of the Public Utilities Commission of New Hampshire this second day of July,

1993.

=====

NH.PUC*07/06/93*[75137]*78 NH PUC 335*Granite State Telephone Company, Inc. v. Michelle Morgan

[Go to End of 75137]

Granite State Telephone Company, Inc. v. Michelle Morgan

DC 93-120
 Order No. 20,899
 78 NH PUC 335

New Hampshire Public Utilities Commission

July 6, 1993

Report and Order Approving Discontinuance of Telephone Service Unless Payment Plan is Established.

Appearances: Devine, Millimet and Branch, P.A. by Frederick J. Coolbroth, Esq. for Granite State Telephone, Inc.; Mary Anne Lutz for the Staff of the New Hampshire Public Utilities Commission

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BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

In June, 1993 Granite State Telephone, Inc. (Granite State) contacted the consumer assistance department of the New Hampshire Public Utilities Commission (Commission) requesting guidance regarding the billing status and continuation of service to the account held by Michelle Morgan of Sandown, New Hampshire.

By letter dated June 16, 1993, the Commission Staff notified Ms. Morgan of Commission rules regarding disconnection, payment arrangements for outstanding bills and the standards which apply in the case of medical emergencies. Pertinent sections of the Commission's rules were quoted for Ms. Morgan's benefit. The letter also noticed a hearing for June 23, 1993 to resolve the matter. A subsequent letter dated June 25, 1993 rescheduled the hearing, at Ms. Morgan's request, until June 30, 1993. The Commission, through designated hearings examiner Amy Ignatius, took evidence on the matter on June 30, 1993. Ms. Morgan did not appear.

II. POSITIONS OF GRANITE STATE AND MS. MORGAN

A. *Granite State*

Granite State's Business Office Supervisor Diane Hawkins testified that Granite State opened an account at the request of Michelle Morgan and Michael Desmarais on July 31, 1992, for service beginning August 31, 1992, to provide telephone service to the residence of Ms. Morgan and Mr. Desmarais at 212 North Road, Apt. 3, Sandown, New Hampshire.

Granite State recognizes that Ms. Morgan's son has a number of serious medical problems, including a chronic breathing disorder which requires monitoring during sleep. He is cared for by a home health provider during the night and must be monitored on a 24 hour basis. Granite State has received two certifications by medical providers that Ms. Morgan's son has a serious chronic condition and agrees that a medical emergency exists at the residence.

Bills were paid on time from September through December, 1992, but beginning in January 1993, Ms. Morgan began to fall behind in payments, ultimately leading to a current arrearage, as of June 10, 1993, of \$1,164.59.

The January 1993 bill was eventually paid, after Granite State and Ms. Morgan worked out a payment schedule of \$50 per week until paid in full, which she completed on April 7, 1993. The February bill of \$281.27 was only partially paid, with \$153.41 in arrears. The March bill of \$332.26, the April bill of \$463.11, the May bill of \$36.52 and the June bill of \$179.19 remain unpaid. The last payment received was on April 21, 1993, paying a portion of the February 1993 bill.

Granite State repeatedly contacted Ms. Morgan to notify her of impending disconnection and attempts to negotiate a payment plan. Disconnect notices were sent on February 19, 1993 (on the January arrearage, which was subsequently paid in full), March 22 (on the February arrearage, a portion of which was paid), April 23, 1993, May 21, 1993 and June 21, 1993. On April 19, 1993 Granite State and Ms. Morgan agreed to a new payment plan of \$50 per week until all arrearages were paid in full. Ms. Morgan stated she would pay every Monday, beginning April 26, 1993, but according to Granite State, no payments have been received. On May 21, 1993 a disconnect notice was sent and on June 2, 1993, in accordance with the notice, service was disconnected.

On June 4, 1993, Ms. Morgan and health care providers caring for Ms. Morgan's son contacted Granite State insisting that service be restored. Ms. Morgan stated that she had been paying \$50 per week and shouldn't be shut off. Granite State checked its records and found no evidence of payment under the new payment plan established to begin April 26, 1993. Interim Health Care, a home health care provider, told Granite State that it would no longer send a nurse to the Morgan residence unless phone service were reinstated. Granite State agreed to reconnect service that day. A

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reconnection charge of \$12.99 was included in her June 1993 bill.

In mid-April 1993, Granite State imposed a block on long distance calls placed directly through dialing 1 + the number. Granite State did not have a tariffed service to block operator assisted calls at that time, but obtained the agreement of Ms. Morgan that she would not make any toll calls through the operator except in the case of a medical emergency to her son's doctor in Exeter or other health care providers. With the blocking in place, Ms. Morgan can still reach

all numbers within her calling area, including the police and fire departments and ambulance service and can also make 800 number calls.

After the blocking was imposed and agreement was reached on not making operator assisted calls except in medical emergencies, Ms. Morgan's charges dropped significantly, to \$36.52 for the May bill (which reflects \$20.84 in toll calling). The following month's bill, however, rose to \$179.19. Despite Ms. Morgan's promise to refrain from non-emergency toll calls, survey of her bills indicates that less than one dollar of the May and June, 1993 toll charges involved calls to medical providers. From December 21, 1992 through June 10, 1993, there was only \$10.13 in toll calls to medical providers (Exeter Pediatric Associates, Exeter Hospital, Interim Health Care and the State's Department of Health and Human Services). This means that of the \$1,164.59 now owed, \$78.40 is for the monthly service charge, \$12.99 is for the reconnection charge and \$1,063.07 is for non-medical toll charges. See Exhibit 1.

Granite State testified that in accordance with the most recent disconnect notice, service will be disconnected July 27, 1993 unless Ms. Morgan pays some portion of her outstanding bill and enters into a payment arrangement with Granite State.

B. Ms. Morgan

Ms. Morgan, although aware of the hearing (according to telephone conversations between Ms. Morgan and Granite State and the Staff) failed to appear or notify the Commission of a problem with the schedule. Staff called her residence at 10:45 to remind her of the hearing but the call was not answered.

C. Commission Staff

The Commission Staff did not testify, other than to document its contacts with Ms. Morgan in the scheduling and rescheduling of the hearing and attempts to reach her the day of the hearing when she failed to appear.

III. COMMISSION ANALYSIS

After review of the testimony, we find that Ms. Morgan meets the standards of N.H. Admin. Rules, Puc 403.06 (a)(2)(c) and a medical emergency exists at her home. Because her son's condition is a chronic one, we do not believe it is necessary to require a monthly update of his medical certificate in order to meet the terms of our rules.

A finding of a medical emergency, however, does not mean that Ms. Morgan is relieved of her responsibility to pay the outstanding bill. Our rules explicitly state that when there is an outstanding bill and a medical emergency exists, "the customer shall be required to negotiate a payment schedule pursuant to Puc 403.06." N.H. Admin. Rules, Puc 406.06(a)(2)(c). We will require that Ms. Morgan enter into a payment arrangement within five business days. Under this arrangement she must immediately pay a reasonable portion of the bill, in light of her financial condition, and establish a schedule to pay the outstanding amount in reasonable weekly installments thereafter. *See* N.H. Admin. Rules, Puc 406.06(a)(2)(e). We will leave the terms of the arrangement to be worked out between Ms. Morgan and Granite State.

We ask Granite State to notify the Staff of the terms of the payment plan and the status of Ms. Morgan's compliance with it. If no arrangement can be agreed upon within five business days, we ask that Granite State so notify the Staff, in order that the Commission may take

appropriate action, including authorization to disconnect service.

We will also order Granite State to continue to block Ms. Morgan's line to prevent the placing of long distance calls placed either through

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dialing 1 + the number or 0 + the number until the outstanding arrearage of \$1,164.59 is paid in full.

Our order will issue accordingly.

Concurring: July 6, 1993

ORDER

Based upon the foregoing report, which is a part hereof; it is hereby

ORDERED, that a medical emergency exists at the home of Michelle Morgan due to her son's chronic breathing disorder; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules, Puc 406.06(a)(2)(c) and Puc 406.06(a)(2)(e), Granite State and Ms. Morgan establish a schedule for payment of the outstanding arrearage on her telephone bill of \$1,164.59; and it is

FURTHER ORDERED, that Granite State continue to block long distance telephone calls placed through dialing of 1 + the number or 0 + the number until the outstanding bill of \$1,164.59 is paid in full; and it is

FURTHER ORDERED, that Granite State shall report to the Commission Staff the terms of the negotiated payment schedule or the failure to reach such an agreement, in which case the Commission will take appropriate action including, if necessary, disconnection.

By order of the New Hampshire Public Utilities Commission this sixth day of July, 1993.

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NH.PUC*07/06/93*[75138]*78 NH PUC 338*New England Telephone Company

[Go to End of 75138]

Re New England Telephone Company

DR 93-054

Order No. 20,900

78 NH PUC 338

New Hampshire Public Utilities Commission

July 6, 1993

Order Authorizing Approval of Second Amendment to Centrex Special Contract with the State

of New Hampshire.

BY THE COMMISSION:

ORDER

On March 16, 1993, New England Telephone (NET or the company) petitioned for Commission approval of an amendment to a special contract to provide the State of New Hampshire with Digital Centrex Service; and

WHEREAS, the Commission on September 23, 1986 issued Order No. 18,411 in docket DR 86-244 approving a special contract for digital centrex service between NET and the State of New Hampshire; and

WHEREAS, the Commission on December 4, 1991 issued Order No. 20,324 in docket DR 91-164 approving the first amendment to the special contract between NET and the State of New Hampshire; and

WHEREAS, the costs contained in these contracts are based on the New Hampshire Intellipath Digital Centrex Service filing approved by the Commission in Docket DR 86-236, Report and Order No. 18,753, dated July 10, 1987; and

WHEREAS, the Commission will reserve judgment on whether the methodology used is the most appropriate method for determining NET's costs of service until, as required in Report and Order No. 20,082, dated March 11, 1991, the review of NET's analysis of the incremental costs of Centrex service as part of its updated Incremental Cost Study in 1993 (1993 ICS) filing is completed; and

WHEREAS, the State of New Hampshire has available competitive substitutes for Centrex service in the form of customer owned private branch exchanges; and

WHEREAS, it is likely that the service that is the subject of this special contract will fall under the heading of an emergingly competitive service which will receive more relaxed regulatory treatment and pricing flexibility; it is hereby

ORDERED *NSI*, that New England Telephone's Special Centrex contract 88-1-R with the State of New Hampshire be approved; and it is

FURTHER ORDERED, that the rates for this contract be subject to review following the completion of the updated NET Incremental Cost Study to be supplied in 1993; and it is

FURTHER ORDERED, that NET provide an analysis comparing the rates in this contract to the costs identified in the 1993 ICS, citing the location in the 1993 ICS of each component used to determine the incremental cost of

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Centrex service, no later than 30 days after a final order is issued in docket DR 93-089; and it is

FURTHER ORDERED, that the parties are hereby noticed that the Commission will review NET's analysis of the costs identified in the 1993 ICS with the rates in this contract and, should

the Commission find that the contract rates are below their incremental costs, NET stockholders will be responsible for the deficiency between the rates charged and the incremental cost, for the period during which rates for this service did not recover their costs; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules PUC 203.01, the company cause an attested copy of this Order *Nisi* to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than July 12, 1993 and it is to be documented by affidavit filed with this office on or before August 6, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than August 2, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective on August 6, 1993, unless the Commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this sixth day of July, 1993.

NH.PUC*07/06/93*[75139]*78 NH PUC 339*Town of Derry

[Go to End of 75139]

1.Ax

Re Town of Derry

Additional respondent: Southern New Hampshire Water Company

DR 93-123
Order No. 20,901
78 NH PUC 339

New Hampshire Public Utilities Commission

July 6, 1993

Wholesale Water Contract/Tariff Rate Suspension Order.

BY THE COMMISSION:

ORDER

On June 9, 1993 the Town of Derry filed a revision to its wholesale water rate/contract serving Southern New Hampshire Water Company; and

WHEREAS, a thorough investigation is necessary prior to rendering a decision thereon; it is hereby

ORDERED, that NHPUC No. 1, Town of Derry Water Department 5th revised page 7 is suspended pending further investigation and decision.

By order of the New Hampshire Public Utilities Commission this sixth day of July, 1993.

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NH.PUC*07/06/93*[75140]*78 NH PUC 339*Public Service Company of New Hampshire

[Go to End of 75140]

Re Public Service Company of New Hampshire

DR 92-125

Order No. 20,902

78 NH PUC 339

New Hampshire Public Utilities Commission

July 6, 1993

Special Contracts No. NHPUC-71 and NHPUC-72 with James River Corporation and Wausau Papers of New Hampshire; Order Granting Protective Treatment.

BY THE COMMISSION:

ORDER

On July 14, 1992, the New Hampshire Public Utilities Commission (Commission) issued Order No. 20,540 which approved special contracts NHPUC-71 and NHPUC-72 between Public Service Company of New Hampshire (PSNH) and James River Corporation (James River); and

WHEREAS, a portion of James River's operations governed by Special Contract

[Page 339](#)

NHPUC-72 has since been sold to Wausau Papers of New Hampshire (Wausau); and

WHEREAS, Order No. 20,540 required PSNH to file annually, no later than July 1 of each of the next five years, an outline of the tangible benefits to PSNH, James River and other customers justifying the continued discounted demand charges on an on-going basis and reporting the difference between the revenues collected and the revenues that would have been collected under standard tariff rates; and

WHEREAS, on June 25, 1993, PSNH filed with the Commission a Motion for Protective Order stating that the report contains sensitive information concerning James River and Wausau's "investment and production decisions, results of operation, and plans for the future" which PSNH believes should be protected from public disclosure; and

WHEREAS, PSNH states from the lost revenue figures, one could calculate the usage under the special contracts, thereby releasing customer specific information not generally released by the Commission; and

WHEREAS, PSNH states that because James River and Wausau compete with one another in some markets, the report will be produced in didacted form, such that neither company will be able to identify information about the other; and

WHEREAS, the report is a condition of Order No. 20,540 and is critical for the Commission to review in evaluating whether it is appropriate to continue to allow the discounted demand charges; it is hereby

ORDERED, that the Motion for Protective Order be, and hereby is, granted to allow Staff review of the July 1, 1993 report by PSNH; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Commission Staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this sixth day of July, 1993.

=====

NH.PUC*07/07/93*[75141]*78 NH PUC 340*American Teletronics of New Hampshire, Inc.

[Go to End of 75141]

Re American Teletronics of New Hampshire, Inc.

DE 92-198

Order No. 20,903

78 NH PUC 340

New Hampshire Public Utilities Commission

July 7, 1993

Order *NISI* Granting Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On October 16, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from American Teletronics Long Distance, Inc., later incorporated as American Teletronics of New Hampshire, Inc. (ATNH) in February 1993, for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, ATNH proposes to do business as a reseller of intrastate long distance telephone service; and

WHEREAS, the Commission finds that interim authority for intrastate competition in the

telecommunications industry is in the public good because it will allow the Commission to analyze the effects of competition on the local exchange companies' revenue and the resultant effect on rates; and

WHEREAS, the Commission has determined pursuant to the above finding that it would be in the public good to allow competitors to offer intrastate long distance service on an interim basis until the completion of consideration of the generic issue of whether there should be competition in the intrastate telecommunications market in Docket DE 90-002, the so-called competition docket; and

WHEREAS, the Commission finds that ATNH demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to the petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the

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Commission no later than August 3, 1993; and it is

FURTHER ORDERED, that the petitioner shall notify the public by causing an attested copy of this order to be published once in a newspaper having general statewide circulation, publication to be no later than July 19, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before August 4, 1993; and it is

FURTHER ORDERED, *NISI*, that ATNH hereby is granted interim authority to offer intrastate long distance telephone service in the state of New Hampshire subject to the following conditions:

1. that the services, as filed in its tariff submitted with the petition and subsequently amended, shall be offered only on an interim basis until completion of the so-called competition docket in Docket No. DE 90-002 at which time the authority granted herein may be revoked or continued on the same or different basis;

2. that ATNH shall notify each of its customers requesting this service that the service is approved on an interim basis and that the service may be required to be withdrawn at the completion of DE 90-002 or continued on the same or different basis;

3. that ATNH shall file tariffs for new services and changes in existing services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;

4. that ATNH shall notify the Commission of a change in rates to be charged the public within one day after offering service at a rate other than the rates on file with the Commission;

5. that ATNH shall be subject and responsible for adhering to all statutes and administrative rules relative to quality and terms and conditions of service, disconnections, deposits and billing and specifically N.H. Admin. Rules, Puc Chapter 400;

6. that ATNH shall be subject to all reporting requirements contained in RSA 374:15-19;
7. that ATNH shall compensate the appropriate Local Exchange Company for originating and terminating access pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies until a new access charge is approved by the Commission;
8. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;
9. that ATNH shall report all intraLATA minutes of use to the affected Local Exchange Company. Additionally, ATNH shall report to the Commission all intraLATA minutes of use, the Local Exchange Company the minutes of use were reported to, and revenues paid to the Local Exchange Companies, all data to be reported by service category on a monthly basis;
10. that ATNH shall report revenues associated with each service on a monthly basis;
11. that ATNH shall report the number of customers on a monthly basis;
12. that ATNH shall report percentage interstate usage on a quarterly basis to both the affected Local Exchange Company and the Commission. Furthermore, each Local Exchange Company shall file quarterly data with the Commission reporting each access service subscriber's currently declared percentage interstate usage; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow ATNH to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that this order is subject to modification concerning the above listed conditions as a result of the Commission's monitoring; and it is

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FURTHER ORDERED, ATNH file a compliance tariff before beginning operations in accordance with New Hampshire Admin. Code Puc Part 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this seventh day of July, 1993.

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NH.PUC*07/07/93*[75142]*78 NH PUC 342*Corporate Telemanagement Group of New Hampshire Inc.

[Go to End of 75142]

Re Corporate Telemanagement Group of New Hampshire Inc.

DE 93-068

Order No. 20,904

78 NH PUC 342

New Hampshire Public Utilities Commission

July 7, 1993

Order *Nisi* Approving CTG's Telemanagement Gold Card.

BY THE COMMISSION:

ORDER

On April 7, 1993 Corporate Telemanagement Group of New Hampshire Inc. (CTG) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce Telemanagement Gold Card and Dedicated Leased Line services.

WHEREAS, after the Commission staff questioned CTG about whether Dedicated Leased Line service was applicable in New Hampshire, CTG withdrew its April 7 filing and;

WHEREAS, on June 2, 1993, CTG resubmitted a petition to introduce its Telemanagement Gold Card Service which charges higher per minute toll rates than its alternative calling card service but eliminates the surcharge associated with using the calling card; and

WHEREAS, CTG proposed the filing become effective July 1, 1993; and

WHEREAS, the proposed tariff expands the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than August 3, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, CTG cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than July 19, 1993 and is to be documented by affidavit filed with this office on or before August 4, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of CTG NHPUC Tariff No. 1:

Third Revised Page 1 in lieu of Second Revision

Second Revised Page 4 in lieu of First Revision

Second Revised Page 36 in lieu of First Revision

First Revised Page 36.1 in lieu of Original

are approved; and it is

FURTHER ORDERED, that CTG file properly annotated tariff pages in compliance with

this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this seventh day of July, 1993.

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NH.PUC*07/07/93*[75143]*78 NH PUC 343*Connecticut Valley Electric Company

[Go to End of 75143]

Re Connecticut Valley Electric Company

DR 92-207

Order No. 20,905

78 NH PUC 343

New Hampshire Public Utilities Commission

July 7, 1993

Order *Nisi* Approving Long-Term Power Contracts With SPPs.

BY THE COMMISSION:

ORDER

On June 13, 1993, Connecticut Valley Electric Company (CVEC) filed a *Petition for an Order Nisi Approving Long Term Electricity Purchase Agreements with Celley Mill Hydro, Eastman Brook Hydro and Bath Electric Power Company* along with the individual agreements for each of the three small power producer (SPPs) sites; and

WHEREAS, as a result of the testimony of Ms. Elaine Evans, a co- owner of Celley Mill Hydro and Eastman Brook Hydro who was receiving payment under Rate E, the Short-Term Power Rate, and the oral rebuttal testimony of CVEC in docket DR 92-207, CVEC's fuel and purchased power adjustment clause filing, the Commission issued Order No. 20,719 directing CVEC and the SPPs to meet and negotiate a possible settlement concerning a long-term purchased power arrangement; and

WHEREAS, Order No. 20,719 gave CVEC and the SPPs thirty days from the issuance date to negotiate a possible settlement as well as directing the Commission Staff be made a part of the negotiations to ensure CVEC and the SPPs negotiated in good faith; and

WHEREAS, the Commission also ordered CVEC to file a draft standard contract for small power producers between 100 kW and 1000 kW in conformance with Commission Report and Order 19,052; and

WHEREAS, CVEC filed with the Commission a draft standard contract for small power

producers between 100 kW and 1000 kW on February 3, 1993; and

WHEREAS, negotiations had begun during the thirty day period after the issuance of Order No. 20,719, but no settlement was reached, the Commission extended the deadline for settlement until April 6, 1993 for submission of signed contracts or, absent the filing of the contracts, appear at the Commission for a prehearing conference on April 7, 1993; and

WHEREAS, a prehearing conference was held on April 7th at which CVEC revealed that an agreement in principle had been reached between the SPPs and CVEC; and

WHEREAS, site investigations were conducted during the course of the negotiations at each project; and

WHEREAS, on April 30th negotiations were completed with Bath Electric and a long-term Electricity Purchase Agreement was executed; and

WHEREAS, on May 28th negotiations with Celley Mill and Eastman Brook were completed and long-term Electricity Purchase Agreements were executed for each project; and

WHEREAS, each Agreement has a fifteen year term beginning retroactive to January 1, 1993, with pricing provisions for the purchase of capacity and energy; and

WHEREAS, each SPP project receives a capacity rate of \$4.17 per kW-month in year one and escalates to \$8.83 per kW-month in year fifteen; and

WHEREAS, each SPP project receives an energy rate for net energy delivered of \$0.06 per kWh in year one and escalates to \$0.0971 per kWh in year fifteen with a monthly Loss Adjustment Payment as specified for each SPP project in its respective Agreement, the Loss Adjustment Payment made in lieu of loss multipliers; and

WHEREAS, the rates for capacity and energy agreed to by CVEC and the SPPs fall below the long-term rates established in 1989, but are above the current (1992) long-term rates contained in CVEC's 1992 Integrated Resource Plan until the later years of the Agreement when they fall below; and

WHEREAS, Commission review of the filed Electricity Purchase Agreements between the SPPs and CVEC finds they result in reliable, long-term power supplies for CVEC at fair and stable prices for these three SPP projects; and

WHEREAS, the Commission finds the Electricity Purchase Agreement between CVEC and each SPP project fairly balances the

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interests of CVEC and its customers and the SPPs and is in the public good; it is hereby

ORDERED *Nisi*, that the Long Term Electricity Purchase Agreements between Connecticut Valley Electric Company and Celley Mill Hydro, Eastman Brook Hydro and Bath Electric, respectively, are approved; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner, CVEC, notify all persons desiring to be heard by causing an attested copy of this order to be published in a paper having general circulation in that part of the State in which operations are

proposed to be conducted, such publication to be no later than July 12, 1993, said publication to be documented by affidavit filed with this office on or before July 19, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than July 19, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective July 20, 1993, unless the Commission provides otherwise in a supplemental order issued prior to July 20, 1993.

By order of the New Hampshire Public Utilities Commission this seventh day of July, 1993.

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NH.PUC*07/12/93*[75144]*78 NH PUC 344*Investigation into 1992 Energy Policy Act Requirements

[Go to End of 75144]

Re Investigation into 1992 Energy Policy Act Requirements

DE 93-071

Order No. 20,906

78 NH PUC 344

New Hampshire Public Utilities Commission

July 12, 1993

Report and Order Denying Wheelabrator's Motion for Rehearing, Granting Protective Treatment for Data Responses and Addressing Objections to Data Requests.

Appearances: David Saggau, Esq. on behalf of Granite State Electric Company; LeBoeuf, Lamb, Leiby and MacRae by Scott Mueller, Esq. on behalf of Concord Electric Company and Exeter and Hampton Electric Company; William Bayard on behalf of New Hampshire Electric Cooperative, Inc.; George E. Sansoucy, on behalf of Waste Management of New Hampshire, Inc.; Kenneth C. Picton, Esq. on behalf of Connecticut Valley Electric Company, Inc.; Thomas B. Getz, Esq. on behalf of Public Service Company of New Hampshire; Kenneth A. Colburn on behalf of the Business and Industry Association of New Hampshire; James R. Anderson, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; Susan W. Chamberlin, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission) opened docket DE 93-071 in conformance with the requirements of the federal Energy Policy Act of 1992. The Act required public utility commissions to complete a proceeding no later than October 24, 1993 which addresses the following four issues:

- (1) the potential for increases or decreases in the cost of capital for the purchasing utility, and any resulting increases or decreases in retail electric rates;
- (2) whether the use by nontraditional electricity producers of capital structures with more debt than utilities threatens reliability or provides these producers an unfair advantage over utilities;
- (3) whether to implement procedures for the advance approval or disapproval of specific long-term wholesale power purchases; and
- (4) whether to require as a condition for the approval of a long-term power purchase that there be reasonable assurance of fuel supply adequacy.

The Commission made the six electric utilities mandatory parties and granted full party

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intervention to the Business and Industry Association of New Hampshire (BIA), Representative Amanda Merrill and Campaign for Ratepayers Rights (CRR). The Commission denied CRR's request for PURPA compensation, as well as its request that the scope of the proceeding be expanded beyond the four issues identified above. Waste Management of New Hampshire, Inc. (Waste Management) sought and was granted limited intervention. *See* Report and Order No. 20,853 (May 25, 1993) and Report and Order No. 20,868 (June 15, 1993).

The Commission, on May 25, 1993, issued Order No. 20,854 which required certain QFs to show cause why their long term rates should not be rescinded for failure to comply with the conditions of their rate orders.

On May 28, 1993 Staff served data requests on approximately 80 qualifying facilities (QFs) who sell energy and/or capacity on a long term power purchase arrangement to New Hampshire utilities. The requests were intended to elicit a data base on which the parties and Staff could perform analysis which would enable them and the Commission to address the issues mandated by the Energy Policy Act.

On June 4, 1993, Bristol Energy Corporation, Bio-Energy Corporation, Bridgewater Power Company, Hemphill Power and Light Company, Pinetree Power, Inc., Pinetree Power - Tamworth, Inc., TIMCO, Inc., Whitefield Power and Light Company (collectively Bio-Mass) sought an extension of time in which to file objections and responses to Staff's data requests. The Commission held a hearing on an expedited basis and on June 8, 1993 issued Report and Order No. 20,863 granting in part Bio-Mass' request for extension by giving Bio-Mass until June 11, 1993 to file any objections to data requests and that all data responses ordered by the Commission be filed no later than June 25, 1993.

Granite State Hydropower Association (GSHA) filed on June 14, 1993 a motion for leave to object to certain of Staff's data requests, as did SES Concord Company (now Wheelabrator Concord Company, L.P.) and SES Claremont L.P. (now Wheelabrator Claremont Company, L.P.) (collectively Wheelabrator) and Energy Tactics, Inc. The Commission, on June 15, 1993, issued Order No. 20,871 which granted the requests of GSHA, Wheelabrator and Energy Tactics, Inc. the right to have their late filed objections to data requests considered, denied GSHA's

request to file a memorandum of law on behalf of its members and further ordered that any data responses ordered by the Commission be filed no later than June 25, 1993. On June 18, 1993, GSHA filed a motion for reconsideration of the Commission's denial of its request to file a memorandum of law, which the Commission denied in Order No. 20,895 (July 2, 1993).

Between June 11 and June 17, 1993, Bio-Mass, GSHA, Wheelabrator, Energy Tactics, Inc. and American Hydro, Inc.- Peterborough filed objections to Staff's data requests. On June 18, 1993, Staff responded to the objections and PSNH filed a motion to compel responses.

The Commission, on June 22, 1993, issued Order No. 20,880 which denied the objections of Bio-Mass, GSHA, Wheelabrator, American Hydro, Inc.-Peterborough and instructed any person seeking protective treatment for its responses to make such a request no later than June 30, 1993. Wheelabrator, on June 25, 1993, filed a motion for rehearing of Order No. 20,880, to which Staff objected on June 30, 1993.

On June 15, 1993, Bio-Mass filed with the United States District Court for the District of New Hampshire a complaint for declaratory and injunctive relief, which was docketed as *Bristol Energy Corp. et al. v. New Hampshire Public Utilities Commission*, Civil No. 93-322-SD. Wheelabrator and certain other QFs intervened in the District Court action. Pursuant to an agreement reached in the District Court, the Commission agreed to refrain from issuance of any show cause order until August 6, 1993 in order to give the District Court litigants an opportunity to brief and argue the issues.

II. ISSUES RAISED BY QUALIFYING FACILITIES

A. *Wheelabrator's Motion for Rehearing*

Wheelabrator seeks reconsideration of Order No. 20,880 which denied the objections of Bio-Mass, GSHA, Wheelabrator,

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American Hydro, Inc.-Peterborough to certain Staff data requests, noting that under the agreement in the District Court, contested data requests would not have to be answered until the Court has issued a ruling. Wheelabrator then reasserts its arguments as to why the Commission is not authorized to explore the issues contained within many of the Staff data requests. Staff objected to the motion, asserting that the motion contained no new allegations and therefore should be denied.

B. *Requests for Protective Treatment*

A number of QFs have requested protective treatment: Lower Robertson Dam, Ashuelot Paper Company Dam, Concord Steam Corporation, Bio-Energy's Turnkey Landfill, Goodrich Falls Hydro Electric Company, Franklin Falls Hydro Electric Corporation, Sugar River Hydroelectric Power Company and Bio-Energy Partners, Forster's Mill and River Street Associates. There were no objections filed to the requests for protective treatment.

C. *Objection to Data Requests filed by Those Participating in the District Court Action*

A number of QFs which are participating in the federal District Court action challenging the Commission's authority to require certain information filed objections to the Staff's data requests

(Wheelabrator Concord, Wheelabrator Claremont, American Hydro, Inc.-Peterborough, Bristol Energy Corporation, Bio-Energy Corporation, Bridgewater Power Company, Hemphill Power and Light Company, Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., TIMCO, Inc., Whitefield Power and Light Company, Energy Tactics, Inc.). Many of the objections were styled as a reservation of federal rights, requesting that the Commission take no action until the federal court has ruled on the matters raised in Civil No. 93-322-SD.

D. Objection to Data Requests filed by Those Not Participating in the District Court Action

Some QFs which are not participating in the federal District Court action filed objections to the Staff's data requests (Turners Falls, Concord Steam Corporation). As grounds for objection, they argue that the Energy Policy Act of 1992 does not authorize the Commission to engage in such inquiry.

III. COMMISSION ANALYSIS

We have reviewed the many filings in this docket and believe it is necessary to issue an order that addresses the specific filings to date and extends certain rulings to qualifying facilities which may seek similar redress in the weeks to come. While not as precise an approach as we generally favor, such treatment appears necessary given the number of QFs served with data requests (approximately 80) and the number of electric utilities involved in this docket (6).

A. Wheelabrator's Motion for Rehearing

We agree with Wheelabrator that the deadlines for filing of data responses must be extended for those participants in the District Court action. As such, there will be no penalty imposed or show cause order issued until a ruling is issued by the District Court. We deny Wheelabrator's request for rehearing of the other issues contained within its motion, as they appear to cover the same issues raised and rejected in its original objection to the data requests.

B. Requests for Protective Treatment

We have agreed in this limited instance to grant protective treatment for all data responses which QFs submit under a request for protective treatment, without requiring the QF to demonstrate in detail the need for protective treatment, as is our usual custom. Documents filed under request for protective treatment will be reviewed only by the Com-

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missioners and Commission Staff. They will not be made available to other parties to this docket or the general public.

We do this for four reasons: First, the documents for which protective treatment has been sought primarily involves sensitive financial data, one of the common exemptions from public disclosure under RSA 91-A, the Right to Know Law. It appears that formal requests would likely result in an order of protective treatment under our standards. Second, given the sensitivity of QFs to disclosure of financial information and the protection from disclosure on certain issues given QFs from the Public Utility Regulatory Policies Act of 1978, we will err on the side of greater protection of this information. Third, some of the QFs are involved in sensitive negotiations with electric utilities, and for that reason understand why they should not disclose

financial data that could become part of unrelated negotiations. Finally, many QFs are small operations, without counsel. We do not wish to cause these small companies great expense in filing formal motions for protective order and for that reason have agreed to accept letter requests and other indication that the respondent believes the documents should be afforded protective treatment.

C. Objection to Data Requests filed by Those Participating in the District Court Action

For those QFs which have joined in the District Court action, the deadlines imposed by the Court will govern. This means that contested data responses need not be filed by those who have intervened in the District Court action (that is, the Bio-Mass group, Wheelabrator and many of the members of GSHA) until the Court has ruled on Bio-Mass' complaint for declaratory and injunctive relief.

D. Objection to Data Requests filed by Those Not Participating in the District Court Action

For those QFs which have not joined in the District Court action, we deny the objections to certain data requests, as we did in Order No. 20,880 in which we denied the objections of Bio-Mass, Wheelabrator and American Hydro, Inc.-Peterborough. We will order those QFs who objected but who have not intervened in the District Court action to file complete responses to all requests not yet filed no later than Friday, July 23, 1993. For any QF which has neither responded nor filed an objection to the data requests, we order them similarly to file their responses no later than July 23, 1993. If such QFs require clarification of the data requests, they should seek such clarification from Staff by July 16, 1993.

Our order will issue accordingly.

Concurring: July 12, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the Motion for Rehearing filed by Wheelabrator Concord Company, L.P. and Wheelabrator Claremont Company, L.P. is hereby denied; and it is

FURTHER ORDERED, that protective treatment will be accorded to all data responses filed by qualifying facilities, regardless of whether formal requests for confidential treatment are filed, such that the responses will be reviewed by the Commission and Commission Staff but will not be made available to other parties, other qualifying facilities or the public; and it is

FURTHER ORDERED, that for those qualifying facilities participating in the federal District Court action federal claims that the Commission lacks authority to obtain the information asked for in the data requests, data responses need not be filed until the District Court has ruled on the issue; and it is

FURTHER ORDERED, that for those qualifying facilities which are not participating in the federal District Court action, complete data responses are due no later than Friday, July 23, 1993; and it is

FURTHER ORDERED, that any qualifying facility which is not participating in the federal District Court action, which has not yet filed complete data responses and which requires clarification of the data requests, seek such clarification from Staff by July 16, 1993.

By order of the New Hampshire Public Utilities Commission this twelfth day of July, 1993.

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NH.PUC*07/13/93*[75145]*78 NH PUC 348*New Hampshire Electric Cooperative, Inc.

[Go to End of 75145]

Re New Hampshire Electric Cooperative, Inc.

DE 92-149

Order No. 20,907

78 NH PUC 348

New Hampshire Public Utilities Commission

July 13, 1993

1992 Least Cost Integrated Resource Plan; Report and Order Approving Settlement Agreement.

Appearances: Broderick and Dean by Mark W. Dean, Esq. on behalf of the New Hampshire Electric Cooperative, Inc.; Kenneth E. Traum for the Office of Consumer Advocate on behalf of residential ratepayers; Amy L. Ignatius, Esq. for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On July 31, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed its 1992 Least Cost Integrated Resource Plan (LCIP) with the New Hampshire Public Utilities Commission (Commission), pursuant to RSA 378:38.

On September 8, 1992 a pre-hearing conference was held before Susan Chamberlin, Esquire, sitting as Hearings Examiner, pursuant to RSA 363:17. At the pre-hearing conference, a procedural schedule was established including dates for submission and responses to data requests, technical sessions, settlement conferences and filing of prefiled testimony. There were no requests for intervention in this docket.

The Staff submitted the joint prefiled testimony of John C. Cutting, Scott W. Harrold and George R. McCluskey on April 1, 1993 and later filed a letter with the Commission indicating revisions¹⁽³⁰⁾ to its testimony on the capacity cost savings resulting from conservation programs. Staff responses to Office of Consumer Advocate (OCA) data requests were filed on April 13, 1993.

A hearing on the merits was held on May 10, 1993 at which NHEC, OCA and Staff submitted a signed Settlement Agreement for Commission consideration, which is attached hereto as Attachment A. The Agreement detailed several specific recommendations for inclusion in the next LCIP.

II. POSITIONS OF THE PARTIES AND STAFF

A. *New Hampshire Electric Cooperative, Inc.*

Due to its bankruptcy filing in 1990, NHEC delayed implementation of some Demand Side Management (DSM) programs contained within NHEC's 1990 LCIP that were scheduled for delivery in 1991. NHEC hired consultant XENERGY in 1992 to assist in the preparation of the 1992 LCIP and specifically to develop DSM programs and implementation plans to comply with the requirements of RSA 378:38 and Report and Order No. 20,383 on NHEC's 1990 LCIP. Additions and changes to the 1990 LCIP include:

1. use of residential survey results to disaggregate NHEC members into year-round, seasonal and part time residents;
2. development of a commercial end use survey covering 650 members;
3. a new load forecast;
4. an updated DSM screening based on NHEC's avoided costs, survey data and more efficient packaging of technologies into programs; and
5. development by XENERGY of plans for a commercial conservation service, a domestic hot water service, a dual fuel pro-

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gram, and a leased light bulb program.

The Load Forecast report was based on a forecast prepared in September 1991, known as 1991 Forecast Update - Case 2WN, for use by the bankruptcy court. The forecast differs from the 1990 LCIP forecast in that it includes new data and reformulated forecasting equations. The 1991 forecast update continues to show a slowing of NHEC growth relative to prior forecasts.

The Demand-Side Screening report consisted of an evaluation of the technical potential of 15 residential DSM measures and 16 commercial and industrial (C&I) DSM measures. The measures were screened using the Societal Test which is the Total Resource Cost Test with environmental externalities included as a resource cost. From this analysis, 4 residential and 2 C&I DSM programs were recommended for implementation.²⁽³¹⁾ The budget for these programs averages about \$403,000 over the period from 1993 through 1995.

The Supply-Side Assessment report focused on NHEC's wholesale purchases of capacity and energy from Public Service Company of New Hampshire (PSNH). Although a portion of NHEC's power supply needs is met by small power producers and from a life-of-unit entitlement in Maine Yankee, most is provided at wholesale by PSNH, which supplies 26 of the 32 delivery points. The remaining six delivery points are supplied by Central Vermont Public Service Corporation, New England Power Company and Green Mountain Power Corporation. The terms

governing NHEC's wholesale purchases from PSNH are detailed in an Amended Partial Requirements Agreement (APRA), which will become effective on final approval of NHEC's Plan of Reorganization. According to NHEC, the agreement requires NHEC to purchase from PSNH all of its incremental supply needs.

NHEC was required by the Rural Electrification Administration (REA) to develop a long range transmission and distribution system plan capable of serving a load 4.0 times the current system peak over a 30 year period. The plan was divided into three time periods. The first (up to 10 years) assumes 1.6 times greater load level than the current peak demand, the second (up to 20 years) assumes 2.6 times the current peak demand, and the third (up to 30 years) assumes 4.0 times the current peak demand. Economic analyses of alternative system designs for each area, by time period, were performed to arrive at a "least cost" system. The result of this effort was a long-term planning guide which provides a background for consistent and cost-effective short-term planning and construction. NHEC's short-term plan included, among other things, a 7.4 mile 115kV line from Redstone to North Conway to supply the continuing growth in that area. NHEC also included conductor analyses in its short and long term transmission planning to ensure that the most economical conductor sizes were selected.

The Integration report evaluated supply- and demand-side resources simultaneously using the POWERSYM model. Given that the 1992 LCIP assumes that PSNH will be the sole supplier of incremental power for the planning horizon, POWERSYM was used to verify the cost-effectiveness of the 5 recommended DSM programs. If all 5 DSM programs are implemented, NHEC estimates total cumulative savings of about \$27 million by the year 2007.³⁽³²⁾

The Two-Year Action Plan detailed XENERGY's primary recommendations for NHEC to use in setting priorities and monitoring progress. For the period 1992-1994, XENERGY recommended that NHEC pursue the following demand-side action items: 1) implement the 5 cost effective DSM programs; 2) develop monitoring and evaluation plans prior to program implementation; 3) design a new construction DSM program; 4) initiate an economic development program; 5) update its residential saturation survey; and 6) complete a more thorough analysis of the uncertainties facing NHEC.

The Avoided Cost report established NHEC's avoided cost as the purchased power cost it avoids by the use of alternate resources. Despite this, NHEC proposed paying qualifying facilities (QFs) PSNH's avoided energy cost through the month of November 1992, after which it would develop and file its own

avoided cost based rates. NHEC argued that this was appropriate because QF supply characteristics are such that they do not guarantee avoidance of demand charges. However, the avoided costs used by NHEC for DSM screening include both the energy and demand charge components of PSNH's wholesale rate.

B. Commission Staff

Within its testimony, Staff addressed the following areas of NHEC's 1992 LCIP: 1) NHEC's

compliance with Commission Order No. 20,383 on NHEC's 1990 LCIP; 2) compliance with Commission requirements regarding the load forecast report; 3) avoided costs for short- and long-term contracts with non-utility generators and for evaluating demand-side resources; 4) NHEC's ability to pursue and secure supply-side resources from non-utility generators; 5) NHEC's emphasis on load management to the exclusion of conservation in its demand-side programs; and 6) the omission of comprehensive DSM programs for commercial and industrial customers. These concerns will be discussed in turn.

First, Order No. 20,383 defined eight specific areas for NHEC action. They are as follows: 1) update the inputs and further refine the load forecasting methodology; 2) continue to develop a residential end-use load forecasting capability and begin to gather data necessary for end-use forecasting in the commercial and industrial sectors; 3) incorporate the impacts of demand-side programs into the sales and peak demand forecasts, and distinguish demand-side program induced impacts on sales and peak demand; 4) re-evaluate the demand-side options NHEC found to be cost-effective in 1990, and develop implementation plans for those programs that continue to be cost-effective; 5) address the question of the appropriate avoided costs to use in future assessments of its demand- and supply-side options; 6) address the extent to which the difference between the rates NHEC pays its wholesale supplier and the marginal resource costs the supplier incurs can be minimized through more marginally cost based wholesale rates; 7) address in detail whether NHEC's evaluation of supply options, including QFs, is consistent; and 8) demonstrate how NHEC will accomplish and prioritize the tasks in the two year action plan.⁴⁽³³⁾

With respect to issues 1, 2, 3 and 5, Staff believed NHEC complied with the Order. However, issues 4 and 8 were inadequately addressed and issues 6 and 7 were not discussed at all. Further, omissions within the demand-side analysis made an overall LCIP review difficult and provided little substantive assurance that DSM benefits would be realized.

Second, NHEC's load forecast report did not include a high and low forecast as required by the Commission. The filed forecast was originally prepared for use in NHEC's bankruptcy proceeding and also to comply with REA guidelines for power requirements studies. Given the differences between Commission and REA guidelines in this area, Staff's testimony in this proceeding recommended that NHEC include the following in its 1994 LCIP: 1) a residential end-use model; 2) refined and improved econometric models; and 3) a load forecast report prepared specifically for the LCIP filing.

Third, the avoided costs NHEC used to evaluate demand-side resources were the energy and demand charges contained in PSNH's wholesale power rate. In contrast, the only avoided cost that NHEC proposed as the basis of payments to QFs was the energy component of the wholesale power rate. There was no recognition in NHEC's proposal of the value of capacity and energy loss savings nor of the distribution reinforcement costs that could be avoided through planned location of QF resources. As a result, Staff recommended that QF contracts be developed that allow for the payment of avoided capacity costs for reliable power supplies. With respect to QF supplies that do not involve capacity cost savings, payments should reflect avoided energy costs appropriately adjusted for losses.

Fourth, Staff did not totally agree with NHEC's assessment that the APRA substantially restricts NHEC's ability to solicit power from non-utility generators. Therefore, Staff recommended that NHEC include in its 1994 LCIP a comprehensive assessment of all

supply side options that are consistent with the APRA as well as a discussion of the constraints the APRA imposed on NHEC.

Fifth, the 1992 LCIP contained a less complete DSM screening analysis than what was provided by NHEC in 1990. XENERGY evaluated 23 residential and 32 C&I measures and developed 13 programs for the 1990 LCIP, whereas only 15 residential and 16 C&I measures were evaluated in 1992 and only 5 programs developed. In addition, the program offerings heavily favor load management measures and controlled rate options over cost effective energy conservation. Although load management programs allow important peak demand reductions, Staff's analysis of the wholesale rate capacity and energy charges indicated that conservation programs could be at least as effective and in some cases more effective than load management options.

Sixth, the 1992 LCIP contained several discussions of programs designed for residential and small commercial customers but was silent on the needs of C&I customers. As a result of this omission and the fact that C&I programs are typically more cost-effective, Staff recommended that DSM spending in the years 1993 through 1996 be increased to accommodate programs for NHEC's larger customers. Specifically, Staff recommended increasing the 1993 budget to \$600,000 to develop and deliver tried and tested conservation programs for the C&I class. For the next three years Staff recommended, subject to rate impact analyses, a budget path beginning in 1994 at \$1 million increasing to \$2.5 million in 1996.

Finally, Staff recommended that a DSM monitoring and evaluation plan be developed that provides some assurance that the Company's engineering estimates can be validated.

C. Office of Consumer Advocate

OCA did not submit testimony in this docket; however, it did participate in the settlement conferences that produced the Settlement Agreement. In general, OCA sought to insure that residential customers received their fair share of the DSM budget and that the allocation of DSM costs reflected the benefits received by each class.

III. SETTLEMENT AGREEMENT

As a result of negotiations, the parties and Staff agreed to a settlement (see Attachment A) that resolved all issues among them in this proceeding. A summary of the primary recommendations included in that Settlement Agreement is given below:

(a) NHEC will develop a residential end-use modeling capability and use it in conjunction with econometric modeling techniques to construct the 1994 LCIP load forecast;

(b) NHEC will include appropriate line losses and transmission and distribution reinforcement costs in the avoided costs used in demand-side screening analyses. Further, the parties and Staff agreed to file within 60 days of this order recommendations on the level of avoided capacity costs to be included in rates paid to QFs on long term contracts;

(c) The 1994 LCIP supply-side report will include an assessment of all options that are considered to be consistent with the APRA. Further, the 1994 LCIP will include an explanation

of any restriction or limitation the APRA places on NHEC's ability to pursue and secure supply resources from non-utility generators; and

(d) The demand-side resource provisions cover several related areas including but not limited to: 1) elimination of the "societal benefits adder" in the Total Resource Cost Test for DSM screening; 2) increased spending levels; 3) the use of Energy Service Companies to minimize delivery costs; 4) the design and implementation of a lighting rebate program; 5) the development of a comprehensive DSM program for NHEC's larger customers; and 6) the development of monitoring and evaluation plans. The implementation and associated cost recovery for programs consistent with these provisions will be subject to prior Commission approval in a separate filing made October 1st each year beginning 1993.

IV. COMMISSION ANALYSIS

The terms of the Settlement Agreement require a number of improvements in NHEC's

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planning processes that together are expected to result in a more accurate determination of NHEC's needs and the least cost mix of resources to meet those needs. In particular, the improvements related to the development of avoided cost estimates will better enable NHEC to determine the true value of DSM and independent power production to its system and thus improve the quality of resource acquisition decisions. We note that under the settlement agreement, the Total Resource Cost Test used for screening DSM programs will not include an adder for environmental externalities, and that the proposed DSM programs are cost effective even without such an adder. We approve this modification to NHEC's screening analysis as this Commission has not approved adders for environmental externalities.

With respect to the proposed expansion of NHEC's DSM programs, we agree that a better balance between conservation and load management measures must be achieved if NHEC's financial resources are to be used efficiently and all customer classes are provided realistic opportunities to lower their energy bills. However, we find it appropriate to comment on two parts of the Agreement relating to NHEC's development and implementation of the proposed DSM programs.

At the outset, we note that some of the increased spending that we have been asked to authorize will go to further the participation of consultants in the developmental phase of DSM. We find nothing inappropriate about the use of consultants and in fact encourage NHEC to take full advantage of whatever expert help is available, including advice from other New Hampshire electric utilities.

Because NHEC has not had extensive experience in developing DSM programs and has had to focus its efforts on emerging from bankruptcy in recent years, we recognize that without expert help NHEC runs the very real risk of wasting scarce resources on programs that for one reason or another fail to meet the needs of its ratepayers. This concern stems in part from what we perceive to be a lack of precision in many of NHEC's proposals. While we recognize that this is a planning docket and not a DSM filing containing full program details, we will nonetheless require NHEC to keep the Commission Staff fully informed about its plans to comply with the Settlement Agreement provisions, the programs it proposes to implement, and the disposal of the

approved funds.

In approving the proposed revised budget for 1993 of \$600,000 we understand that the additional funds will be provided from internal sources and not from rate increases.

We also recognize the difficulty NHEC faces in finalizing plans and programs when it has not fully emerged from bankruptcy and, therefore, has not seated its new Board of Directors. Because we are already well into 1993, we encourage NHEC, with the assistance of expert help, to proceed quickly to finalize the details of its DSM plans and develop implementation strategies so that when it finally emerges from bankruptcy, it can act without further delay.

Despite these concerns, we find the Settlement Agreement reached between NHEC, OCA and the Staff to be reasonable and in the public interest and will approve it.

Our order will issue accordingly.

Concurring: July 13, 1993

ORDER

Based upon the foregoing report, which is a part hereof; it is hereby

ORDERED, that the terms and the conditions of the Settlement Agreement reached between NHEC, the Office of the Consumer Advocate and the Staff are approved; and it is

FURTHER ORDERED, that NHEC inform the Commission Staff periodically regarding the status of expenditures under the 1993 budget; and it is

FURTHER ORDERED, that NHEC file on October 1, 1993 its 1994 Demand Side Management programs, budget and cost recovery proposal.

By order of the New Hampshire Public Utilities Commission this 13th day of July, 1993.

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FOOTNOTES

¹Revisions pertain to question 28 and its attachments.

²Residential programs are: 1) Hot Water House Calls that includes tank and pipe wraps, high efficiency heaters, low flow showerheads and radio controlled tank thermostats; 2) Leased Lighting that entails leasing 18 Watt compact fluorescent light bulbs from NHEC; 3) Dual Fuel program involves the use of radio controls to interrupt electric space heat load from customers with two heating fuels; and 4) Warm Home Service that includes envelope insulation, weatherization measures and electric thermal storage heating units. Commercial programs are: 1) Interruptible Loads that provide demand credits for customers who curtail load during peak demand periods; and 2) Commercial Conservation Service which uses an energy audit to identify cost effective locations for retrofit installations of energy efficient lighting, heating and water heating measures, etc.

³Based on assumed market penetration, incentive levels, etc. See also page 6-2 of the LCIP

filing.

⁴See Exh. 3 at p. 2-3.

OFFER OF SETTLEMENT

This Stipulation is entered into on this tenth day of May, 1993 by and between the New Hampshire Electric Cooperative, Inc. (NHEC), the staff of the New Hampshire Public Utilities Commission (Staff) and the Office of the Consumer Advocate (OCA) with the intent of resolving all issues in the above-captioned proceeding.

I. Background

On July 31, 1992, NHEC filed its 1992 Least-Cost Integrated Plan (LCIP) with the New Hampshire Public Utilities Commission (Commission), pursuant to RSA 378:38, consisting of the seven areas of reports and analysis that Commission requirements dictate.

On September 8, 1992 a pre-hearing conference in DE 92-149 was held before Susan Chamberlin, Esquire, sitting as Hearings Examiner pursuant to RSA 363:17. At the pre-hearing conference, issues regarding intervention were resolved and a procedural schedule, including discovery, technical sessions and deadlines for the filing of prefiled testimony, was established.

On April 1, 1993, the Staff submitted the joint prefiled testimony of John C. Cutting, Scott W. Harrold and George R. McCluskey. Staff's testimony presents a critical analysis of NHEC's compliance with the requirements of Commission Report and Order No. 20,383, and among other things, makes six specific recommendations for action by the Commission.

II. Positions of the Parties and Staff:

New Hampshire Electric Cooperative

Since filing its 1990 LCIP, NHEC filed for bankruptcy under Chapter 11 of the Federal Bankruptcy Code. The resulting changes in operations and management had the effect of delaying implementation of some of the demand-side management (DSM) programs that were scheduled for delivery in 1991. In 1992, NHEC hired XENERGY Inc. to assist in the preparation of parts of the 1992 LCIP that address the development and implementation of DSM plans that meet the requirements of RSA 378:38 and comply with Report and Order No. 20,383. Additions and changes to the 1990 LCIP include:

1. the use of residential survey results to disaggregate members into year-round, seasonal and part time residents;
2. the development of a commercial end use survey covering 650 members;
3. an updated DSM screening based on NHEC's avoided costs, survey data and more efficient packaging of technologies into programs;
4. the development by XENERGY of plans for a commercial conservation service, a domestic hot water service, a dual fuel program, an interruptible load program, and a leased light program; and
5. a new load forecast.

The Load Forecast report is based upon a forecast prepared in September 1991, known as 1991 Forecast Update - Case 2WN, for use by the bankruptcy court. The forecast update differs from the 1990 LCIP forecast by the inclusion of new data and a reformulation of forecasting equations. The 1991 forecast update continues to show a slowing of NHEC growth relative to prior forecasts.

The Demand-Side Screening report consists of an evaluation of the technical potential (i.e., potential energy savings) of fifteen residential DSM measures and sixteen commercial and industrial DSM measures. The measures are screened using the Total Resource Cost (TRC) test that included a "societal benefit adder".¹⁽³⁴⁾ Programs comprising cost-effective measures are designed, incentive mechanisms developed, and delivery methods proposed. The associated energy and demand impacts, and expected market penetrations are also presented. Four separate residential²⁽³⁵⁾ and two commercial³⁽³⁶⁾ DSM programs were developed, of which five programs were recommended for implementation. The Company's proposed medium term budget⁴⁽³⁷⁾ is \$408,188 in 1993, \$395,388 in 1994, and \$406,388 in 1995, consisting of:

1. Commercial Conservation Service
2. Residential Domestic Hot Water Service
3. Leased Light Program
4. Dual Fuel Program
5. Interruptible Load Program

The Supply-Side Management report describes NHEC as a wholesale power requirements customer of Public Service Company of New Hampshire (PSNH) under the Amended Partial Requirements Agreement (APRA). Consequently, NHEC expects to purchase all of its incremental power supply needs from existing sources, primarily PSNH.⁵⁽³⁸⁾

The Assessment of Transmission Constraints and Requirements is based upon NHEC's Long-Range Plan consistent with REA requirements and guidelines. This section develops a plan for the North Conway Transmission Project, along with several alternatives, and provides general information on limitations and constraints on size and siting of generating facilities.

The Integration report evaluates supply- and demand-side resources simultaneously using the POWRSYM model. Because the 1992 LCIP assumes that PSNH will be the sole supplier of power for the planning horizon, POWRSYM was used as a means of verifying the cost-effectiveness of the five recommended DSM programs. If all five programs are implemented, NHEC could save a cumulative total of \$27,271,218⁶⁽³⁹⁾ by the year 2007.

The Two-Year Action Plan section develops a list of action items to aid the setting of priorities and to chart the Company's progress. For the period 1992-1994, XENERGY recommends that NHEC: 1) aggressively pursue implementation of each of the five recommended DSM programs; 2) complete monitoring and evaluation plans prior to program implementation; 3) design a new construction DSM program; 4) initiate an economic development program; 5) update its residential saturation survey; and 6) complete a more thorough analysis of the uncertainties facing the Company.

The Avoided Cost report establishes NHEC's avoided costs as the purchase power costs it

avoids under the APRA. NHEC proposed paying qualifying facilities (QF's) up to the avoided energy cost, and requests that it be allowed to continue paying small power producers (SPP's) at the rate proposed in DR 92-135 through the month of November 1992. DSM screening was based on the avoidable capacity and energy charges included in PSNH's whole-sale rate.

Commission Staff

Staff's testimony expressed several concerns regarding NHEC's 1992 LCIP filing including:
1) NHEC's compliance with Commission Order No. 20,383 on NHEC's 1990 LCIP; 2) compliance with Commission

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requirements regarding the forecast report; 3) proposed avoided costs for long-term contracts with non-utility generators and for evaluating demand-side resources; 4) NHEC's ability to pursue and secure supply-side resources from non-utility generators; 5) NHEC's emphasis on load-management to the exclusion of conservation in its demand-side programs; and 6) the omission of comprehensive DSM programs for commercial and industrial consumers.

Staff is especially concerned about the design of several of the proposed DSM programs, about their ability to generate real savings, and about NHEC's ability to effectively administer and evaluate the programs. In addition, Staff believes that the proposed DSM programs are underfunded, particularly those targeted at NHEC's commercial and industrial consumers. Staff makes six specific recommendations for action by the Commission:

1. Increase the 1993 DSM budget to \$600,000 in order to allow NHEC to develop and implement tried and tested conservation programs for the commercial and industrial consumer classes;
2. Subject to NHEC's rate impact analyses, set the target 1994 budget to about \$1.0 million, and develop programs for all consumer classes consistent with an annual budget of about \$2.5 million in 1996;
3. Develop a monitoring and evaluation plan that provides some assurance that the engineering estimates can be validated;
- 4) With respect to the evaluation of DSM programs, adjust the avoided cost projections to reflect losses and transmission and distribution reinforcement costs;
- 5) With respect to QFs, develop contracts that allow for the payment of avoided capacity costs for reliable power supplies; and
- 6) With respect to QF supplies that do not involve capacity costs savings, payments should reflect avoided energy costs.

III. Settlement

With an understanding of their respective positions, the parties and Staff have engaged in negotiations and have reached a settlement which resolves all issues among them in this proceeding. Specifically, the parties and Staff agree as follows:

A) Load Forecast and Forecast Methodology

NHEC will evaluate the use of lagged price variables in its next LCIP forecast and will continue to update the inputs and reformulate the equations as necessary. NHEC will include a residential end-use model in the next LCIP filing. NHEC's load forecast section of future LCIP filings will be in full compliance with Commission requirements and directions.

B) *Avoided Costs*

In its next LCIP, NHEC will include appropriate line losses and transmission and distribution reinforcement costs in its calculation of avoided costs for use in demand-side analyses. NHEC will pay small power producers (SPPs) on short term contracts the avoided energy cost of the wholesale power rate at the respective delivery point. Within 60 days as of the date of the Commission's order in this proceeding the parties will submit their recommendations regarding payments to SPPs on long term contracts. Those recommendations will include an analysis of the avoided energy and demand costs associated with SPP purchases.

C) *Supply-side Options*

NHEC will include in its next LCIP a comprehensive assessment of all supply options that are consistent with the terms and conditions of the Amended Partial Requirements Agreement (APRA). As part of this assessment, NHEC will detail any restrictions which it believes the

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APRA places on the ability of NHEC to pursue and secure supply resources from non-utility generators. This assessment will take into account NHEC's obligations under state and federal laws.

D) *Demand-side Options*

(1) DSM Screening

For purposes of the screening analysis in its next LCIP, NHEC will include a full set of commercially available conservation and load management (C&LM) options. In order to minimize lost opportunities, NHEC shall include in its proposed programs measures that fail the screening process on a stand alone basis but are cost-effective when delivered as part of a larger package. NHEC will not include a "societal benefits adder" in the Total Resource Cost Test for DSM screening purposes.

(2) DSM Expenditures and Cost Recovery

NHEC shall increase its total 1993 DSM budget by \$250,000 to \$600,000 and target those additional dollars for the design and implementation of energy conservation programs. In 1994, NHEC will increase its DSM budget to \$900,000

NHEC shall use the following annual budgets as a guide to the design of DSM programs and the development of monitoring and evaluation (M&E) procedures:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

1994 \$ 900,000
 1995 \$1,500,000
 1996 \$2,500,000

However, the implementation and associated cost recovery for DSM programs proposed by NHEC will be subject to prior approval by the Commission in a separate DSM filing made October 1st each year, for effect by February 1st of the following year. Among other things, NHEC will detail the analysis of the cost-effectiveness of its proposed programs and calculate the associated rate impacts. In calculating those rate impacts, NHEC will allocate all recoverable costs (including lost fixed cost revenues if requested and approved) to rate classes in proportion to the DSM dollars spent on each class.

(3) Rebate Strategy

In designing its DSM programs for the commercial sector, NHEC should consider a rebate strategy that conditions utility-based financial support for high cost/long payback measures on a member's willingness to self-finance low-cost/short-payback measures.

(4) Energy Service Companies (ESCOs)

Following the development of specific C&LM programs, NHEC will examine the cost effectiveness of using ESCOs, including Community Action Program (CAP) services to deliver such programs. NHEC shall contact other New Hampshire utilities using ESCOs and CAPs in order to share their experiences in the areas of competitive bidding procedures, utility oversight mechanisms, and contract terms.

(5) Interruptible Load Programs (ILP)

NHEC, as part of its ILP marketing efforts, will provide commercial energy audits to members requesting service under its interruptible rate. Such audits will determine program eligibility, assess applicability of cost effective C&LM measures, and establish baseline energy consumption data related to large commercial and industrial consumers.

(6) Lighting Program

NHEC will review the lighting programs of other utilities in New Hampshire in order to redesign the Leased Lighting Program as a catalog lighting program with a subsidized purchase price and an installment payment option over a short time period. NHEC shall evaluate the cost effectiveness of contracting program implementation to an ESCO rather than using its own staff.

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(7) Commercial and Industrial Program

As part of its October 1993 filing pursuant to Section III D(2), NHEC shall design and develop a DSM program for its commercial and industrial (C&I) consumers that includes conservation measures that have been approved by the Commission for other New Hampshire utilities. Such measures may include but are not limited to the following:

- (a) Comprehensive energy audits conducted by qualified individuals or firms;
- (b) Sharing of audit costs or free audits if a member installs specific measures;
- (c) Measure specific rebates to encourage installation of longer payback measures;
- (d) Maximum annual rebate per consumer or facility; and

(e) Rebates conditioned on verification of installation of low- cost fast-payback measures;

(8) Dual Fuel

NHEC shall provide in its 1994 LCIP filing the following information concerning this program:

(a) typical equipment, labor and administrative costs per participant;

(b) average participant's kW and kWh reductions and associated system savings

(c) average participant's bill reduction, the magnitude of the monthly charge and the payback period.

(9) Weatherization Service

As part of its October 1993 DSM filing, NHEC will design and develop a weatherization service for its low income electric heat residential customers. Included in this service will be caulking, weatherstripping, and up to three compact fluorescent light bulbs where cost-effective. For those homes where the installation of additional wall, ceiling or floor insulation is determined to be cost effective, NHEC will pay up to 100% of the installed cost of weatherization and insulation measures for low income customers. NHEC shall contact local CAP offices for the purpose of coordinating weatherization efforts and identifying potential low income participants.

(10) Monitoring and Evaluation Plans

NHEC will review the M&E procedures and practices of other New Hampshire electric utilities and develop plans and budgets consistent with the DSM programs to be offered in its service territory. Those M&E plans shall detail, at a minimum, data collection methods and requirements, evaluation techniques, and rationale for selecting the techniques. NHEC commits to the development of comprehensive M&E plans for inclusion in its 1994 LCIP filing.

E. Energy Policy Act of 1992

NHEC shall submit in its 1994 LCIP filing an analysis of what impact, if any, the Energy Policy Act has on NHEC's integrated resource planning and C&LM development.

IV. Conditionality

The making of this agreement shall not be deemed in any respect to constitute a stipulation or admission by either NHEC, Staff, or OCA that any allegation or contention asserted by any entity in these proceedings is true and valid.

The negotiations which have produced this Stipulation have been conducted on the explicit understanding that all offers of settle-

ment and discussions relating thereto are and shall be privileged, and shall be without prejudice to the position of any party or participant presenting such offer or participating in any such discussion, and are not to be used in any manner in connection with this proceeding, any

future proceeding, or otherwise.

All offers, agreements and stipulations incorporated herein are made contingent upon the Commission's acceptance of this stipulation in its entirety. If the Commission rejects this stipulation in whole or in part, the parties and Staff reserve the right to withdraw the stipulation. In such a case each party and Staff shall be free to litigate any issue raised in this docket without regard to the terms and conditions of this stipulation and without regard to any proposals, offers, or agreements advanced during negotiations.

IN WITNESS THEREOF, the parties and Staff have caused this agreement to be executed in their respective names by their duly authorized agents, and request the Commission to adopt this settlement as a final resolution of all issues in this proceeding.

NEW HAMPSHIRE ELECTRIC

COOPERATIVE, INC. Dated: 5/10/93 BY: Mark W. Dean, Esquire Broderick & Dean, P.A.
707 Chestnut Street P.O. Box 1420 Manchester, NH 03105-1420

OFFICE OF THE CONSUMER

ADVOCATE Dated: 5/10/93 BY: Ken E. Traum, Finance Dir. Office of the Consumer
Advocate 8 Old Suncook Road Concord, NH 03301

STAFF OF THE NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION Dated: 5/10/93 BY: Amy Ignatius, Esquire New
Hampshire Public

Utilities Commission

FOOTNOTES

¹This form is commonly referred to as the Societal Resource Cost Test, as the TRC test does not include externalities.

²The four residential programs include: 1) Hot Water House Calls, which includes such measures as high efficiency water heater tanks, tank and pipe wrapping, low flow showerheads, and radio control of tanks; 2) Leased Lighting, which involves the leasing of 18 Watt compact fluorescent lamps from NHEC; 3) Warm Home Service, which includes such measures as electric thermal storage (ETS) heating, wall and ceiling insulation, and weatherization; and 4) Dual Fuel, which uses radio control to interrupt the electric heating load of customers with an alternative heating source.

³The two commercial programs include: 1) Interruptible Loads, which provides commercial customers with demand credits for voluntary curtailments during peak demand periods; 2) Commercial Conservation Service, which uses energy audits to encourage commercial customers to purchase and install various energy saving lighting, heating, water heating, etc., measures.

⁴Table 6-2 in the Company's filing provides a detailed breakdown of proposed annual

budgets.

⁵The exception being energy that NHEC must purchase from an independent power producer or non-utility supplier pursuant to the requirements of governmental authorities.

⁶Based upon assumed market penetration, incentive levels, etc.

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NH.PUC*07/13/93*[75146]*78 NH PUC 358*MCI Telecommunications Corporation

[Go to End of 75146]

Re MCI Telecommunications Corporation

DE 93-125

Order No. 20,908

78 NH PUC 358

New Hampshire Public Utilities Commission

July 13, 1993

Order *Nisi* Approving Trademarks and Service Marks in MCI's Tariff and Revision to Vnet Rate Structure.

BY THE COMMISSION:

ORDER

On June 18, 1993, MCI Telecommunications Corporation (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to revise its virtual network telecommunications service (Vnet) rate structure and introduce a Trademarks and Service Marks page in its NHPUC Tariff No. 1 - Intrastate Telecommunications Service. WHEREAS, MCI proposed the filing become effective July 18, 1993; and

WHEREAS, the proposed tariff may foster competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition; and

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WHEREAS, upon review of the petition and the Staff recommendation, the Commission finds the proposed offering to be in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than August 9, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, MCI cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than July 23, 1993 and is to be documented by affidavit filed with this office on or before August 12, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of MCI Tariff PUC No. 1 are approved:

- Nineteenth Revised Page 1
- Ninth Revised Page 3
- Fifth Revised Page 4
- Original Page 6.1
- Third Revised Page 38
- Fifth Revised Page 39 in Lieu of Fourth Revision
- Second Revised Page 40

and it is

FURTHER ORDERED, that MCI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirteenth day of July, 1993.

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NH.PUC*07/19/93*[75147]*78 NH PUC 359*Enhanced 911 Telephone Line Surcharge

[Go to End of 75147]

Re Enhanced 911 Telephone Line Surcharge

DR 93-095

Order No. 20,909

78 NH PUC 359

New Hampshire Public Utilities Commission

July 19, 1993

Order Establishing E911 Surcharge For Fiscal Year 1994.

BY THE COMMISSION:

ORDER

WHEREAS, on May 27, 1993, this Commission issued its Order No. 20,850 instructing the local exchange telephone companies (LECs) to initiate changes to their administrative and operational support systems in preparation for billing an E911 surcharge beginning with bills dated on or after August 1, 1993; and

WHEREAS, the surcharge could not be calculated until passage of the 1994/1995 biennial state operational budget; and

WHEREAS, the 1994/1995 biennial state operational budget has now gone into effect establishing a spending level of \$2,769,883 for the E911 Emergency Bureau during fiscal year 1994; and

WHEREAS, the surcharge has now been determined to be 39 cents, per telephone exchange line, per month, and is to be levied upon telephone exchange lines as described within Order No. 20,850; and

WHEREAS, pursuant to RSA 106-H, the surcharge is to fund the creation of the E911 system no later than July 1, 1995, "seasonal service" lines or telephone lines that are temporarily suspended shall be levied the full 39 cent surcharge; and

WHEREAS, the Commission finds the levying of the surcharge to fund the statewide E911 system to be in the public interest; it is hereby

ORDERED, that each LEC commence the billing of a 39 cent, per month, per telephone line, E911 surcharge beginning with bills dated on or after August 1, 1993; and

FURTHER ORDERED, that the LECs commence remittance of the billed surcharge to the Executive Director, or designee, Bureau of Emergency Communications, 10 Hazen Drive, Concord, New Hampshire, 03305, the first remittance shall be due on September 30, 1993,

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and followed thereafter on the last day of each month following.

By order of the New Hampshire Public Utilities Commission this nineteenth day of July, 1993.

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NH.PUC*07/19/93*[75148]*78 NH PUC 360*Sprint Telecommunications Corporation

[Go to End of 75148]

Re Sprint Telecommunications Corporation

DE 93-121
Order No. 20,910

78 NH PUC 360

New Hampshire Public Utilities Commission

July 19, 1993

Order *Nisi* Approving SPRINT's The Most for Business, Eliminating the Free Call Allowance for Directory Assistance and Adding Language to Clarify when Operator Service Rates Apply.

BY THE COMMISSION:

ORDER

On June 15, 1993 SPRINT Telecommunications Corporation (SPRINT) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce The Most for Business, eliminate the free call allowance for Directory Assistance, and add text to clarify that Virtual Private Network (VPN) usage rates apply when VPN customers use Operator Services and Operator Service rates apply when FONCARD customers use Operator Services.

WHEREAS, The Most for Business provides discounts for small business customers which are automatically applied to the most frequently called number and is an add-on service to Sprint's interstate The Most for Business offering; and

WHEREAS, The Most for Business offers a term option greater than 30 days; and

WHEREAS, Order No. 20,077 (76 NHPUR 143) prohibits carriers from offering service periods greater than 30 days; and

WHEREAS, the Stipulation and Agreement, dated March 16, 1993 in docket DE 90-002, approved as modified by the Commission, removes the prohibition imposed by Order No. 20,077, thus allowing carriers to offer term plans or service periods greater than 30 days; and WHEREAS, SPRINT proposed the filing become effective July 29, 1993; and

WHEREAS, the proposed tariff may foster competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition; and

WHEREAS, upon review of the petition and the Staff recommendation, the Commission finds the proposed offering to be in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than August 13, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, SPRINT cause an attested copy of this Order *Nisi* to be published in a newspaper having statewide circulation, such publication to be no later than July 29, 1993 and is to be documented by affidavit filed with this office on or before August 16, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of SPRINT's NHPUC Tariff No. 3 are approved:

10th Revised Page 1
3rd Revised Page 47
Original Page 49.2
2nd Revised Page 60
3rd Revised Page 61
4th Revised Page 62
1st Revised Page 63.1
2nd Revised Page 63.2
Original Page 63.3
Original Page 63.4
Original Page 63.5

and it is

FURTHER ORDERED, that the provision for term options greater than 30 days on the 1st Revised Page 49.1 is approved conditionally, subject to final approval of the modified Stipulation and Agreement once accepted by the parties in DE 90-002 and the remainder of the 1st Revised Page 49.1 is approved; and it is FURTHER ORDERED, that SPRINT file properly annotated tariff pages in compliance

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with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* shall be effective August 18, 1993 unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this nineteenth day of July, 1993.

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NH.PUC*07/19/93*[75149]*78 NH PUC 361*Vermont Electric Generation and Transmission Cooperative, Inc.

[Go to End of 75149]

Re Vermont Electric Generation and Transmission Cooperative, Inc.

DF 93-134
Order No. 20,911
78 NH PUC 361

New Hampshire Public Utilities Commission

July 19, 1993

Order Acknowledging Exemption of the Vermont Electric Generation and Transmission Cooperative, Inc. from the Requirements of RSA 374-A:7(II)(c).

BY THE COMMISSION:

ORDER

The Vermont Electric Generation and Transmission Cooperative, Inc. (VEG&T), having filed on July 15, 1993, a certification by the State of Vermont Public Service Board with the New Hampshire Public Utilities Commission (Commission) pursuant to RSA 374-A:7(II)(c) for exemption from the requirements of RSA 369 and other regulatory laws within the state of New Hampshire with respect to VEG&T's financing of its interest in electric power facilities; and

WHEREAS, said certification was filed in respect to VEG&T's financing of its interest in electric power facilities and the issuance of certain promissory notes in connection with the refinancing of certain existing indebtedness to the Federal Financing Bank, a financing which is subject to the jurisdiction of the Vermont Public Service Board; and

WHEREAS, in said filing, the Vermont Public Service Board certified, by and through its Clerk of the Board, Susan M. Hudson, that it has reviewed and, pursuant to an Order dated May 7, 1993, consented to the financing in question, pursuant to Vermont law (30 V.S.A. § 108); it is hereby

ORDERED, that on filing of said certification, VEG&T is exempt from the provisions of RSA 369 and RSA 374-A:7(II)(c) regarding the financing described in its filing, in which it will:

1. Execute and deliver certain promissory notes to the National Bank for Cooperatives ("CoBank") in connection with the proposed refinancing of debt to the Federal Financing Bank, under a loan agreement between VEG&T and CoBank; and
2. Execute and deliver certain promissory notes to the Federal Financing Bank to evidence the loans not refinanced by VEG&T; and
3. Execute a loan guarantee and servicing agreement and mortgage agreements to the United States of America, acting by and through the Rural Electrification Administration (REA), in connection with REA's guarantee of VEG&T's promissory notes.

By order of the New Hampshire Public Utilities Commission this nineteenth day of July, 1993.

=====

NH.PUC*07/19/93*[75150]*78 NH PUC 361*Cable & Wireless Communications Inc.

[Go to End of 75150]

Re Cable & Wireless Communications Inc.

DE 93-126
Order No. 20,912
78 NH PUC 361

New Hampshire Public Utilities Commission

July 19, 1993

Order *Nisi* Approving Venturesm, Simplicitysm and Simplicity Directsm as an Add-On Service.

BY THE COMMISSION:

ORDER

On June 21, 1993 Cable & Wireless Communications Inc. (CWC) filed with the New Hampshire Public Utilities Commission (Commission) revisions to its tariff. This filing

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introduces Simplicitysm, Simplicity Directsm and Venturesm as add-on pricing options to the existing Virtual Network Service; and

WHEREAS, the proposed tariff changes expand the choice of telephone options to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, Staff has investigated this matter and upon review the Commission finds that the public should be offered a opportunity to respond in support of, or in opposition to said changes; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than August 13, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, CWC cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than July 29, 1993 and is to be documented by affidavit filed with this office on or before August 16, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of CWC Tariff PUC No. 1 are approved:

4th Revised Page No. 1 Original Page 1.1 1st Revised Page No. 2 Original Page No. 36
Original Page No. 37 Original Page No. 38 Original Page No. 39 Original Page No. 40
Original Page No. 41 Original Page No. 42 Original Page No. 43 Original Page No. 44
Original Page No. 45 Original Page No. 46 Original Page No. 47 Original Page No. 48;

and it is

FURTHER ORDERED, that CWC file properly annotated tariff pages in compliance with

this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective 30 days from the date of this order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this nineteenth day of July, 1993.

=====

NH.PUC*07/23/93*[75151]*78 NH PUC 362*Pennichuck Water Works, Inc.

[Go to End of 75151]

Re Pennichuck Water Works, Inc.

DE 92-185

Order No. 20,913

78 NH PUC 362

New Hampshire Public Utilities Commission

July 23, 1993

Order NISI Granting Authorization to Provide Water Service and Charge Rates in a Portion of the Town of Bedford.

BY THE COMMISSION:

ORDER

WHEREAS, On September 30, 1992, Pennichuck Water Works, Inc. (Pennichuck) filed a petition to engage in business as a public utility in the northwest portion (northwest quadrant) of the Town of Bedford, New Hampshire (Town) and to establish rates therein; and

WHEREAS, the proposed franchise area includes a new development known as Powder Hill, which is expected to have up to ten homes occupied by the end of 1993 and to have a full build-out of approximately 110 homes; and

WHEREAS, Pennichuck and Prescott Investment Corporation (Prescott), the developer of the Powder Hill development, have entered into an agreement whereby Pennichuck would acquire from Prescott the development's water system assets upon fulfillment of certain conditions specified in the agreement; and

WHEREAS, Pennichuck has monitored design and construction of the water system to ensure construction to utility standards; and

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WHEREAS, the Town supports the proposed franchise and in fact required transfer of the Powder Hill water system to Pennichuck as a condition for approval of the development; and

WHEREAS, the New Hampshire Department of Environmental Services has approved the suitability and availability of water for the Powder Hill water system as required by RSA 374:22 III; and

WHEREAS, upon further communication between the parties, the Town has indicated its preliminary support for granting authorization for Pennichuck to operate in the entire Town except for a limited portion along the Town's eastern border presently or potentially served by Manchester Water Works (MWW); and

WHEREAS, Pennichuck already serves some 60 customers in an existing franchise known as the Bedford Water Company (BWC) area; and

WHEREAS, there are no other public water utilities in the Town; and

WHEREAS, due to the fact that the information presented by Pennichuck indicates that the full build-out stand-alone rate for the Powder Hill development would be less than Pennichuck's core system rate; the design and construction of the Powder Hill system meet Pennichuck's core system standards; the Powder Hill system would be served from the existing base of Pennichuck personnel and equipment; and the proposed (northwest quadrant) franchise is near Pennichuck's existing franchises in Bedford and Amherst, it is just and reasonable to set core interim rates in the proposed (northwest quadrant) franchise area as a surrogate for cost-based rates; and

WHEREAS, after investigation and consideration, the Commission finds granting of the proposed northwest quadrant franchise area at core system interim rates to be in the public good; and

WHEREAS, the public should be afforded an opportunity to respond in support of, or in opposition to, the above proposals; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing before the Commission by August 25, 1993; and it is

FURTHER ORDERED, that Pennichuck effect said notification by (1) causing an attested copy of this order to be published no later than August 11, 1993, once in a newspaper having statewide circulation and once in a newspaper having general circulation in the Bedford area; (2) providing, pursuant to RSA 541-A:22, a copy of this order to the Bedford Town Clerk by first class US mail, postmarked on or before August 11, 1993; (3) providing a copy of this order by first class US mail to each customer of the Powder Hill development, postmarked on or before August 11, 1993; and (4) documenting compliance with these notice provisions by affidavits, to be filed with the Commission on or before August 25, 1993; and it is

FURTHER ORDERED *NISI*, that authority be, and hereby is granted to Pennichuck, to engage in business in the northwest quadrant of the Town including the Powder Hill development, such quadrant area being delineated on a map on file at the Commission, and to therein charge Pennichuck's core system rates then in effect; and it is

FURTHER ORDERED *NISI*, that action on a request by Pennichuck to operate in the

remaining portion of the Town, excluding that portion allocated to MWW, will await a petition for such authority, accompanied by a letter stating the Town's position on such a request; and it is

FURTHER ORDERED, that approval to provide service in the above portion of the Town does not constitute approval of any capital costs associated with plant and equipment to be used to furnish water service therein; and it is

FURTHER ORDERED, that Pennichuck supply detailed records listing the value of all of the Powder Hill water supply assets and associated depreciation reserves no later than October 27, 1993; and it is

FURTHER ORDERED, that Pennichuck file revised tariff pages reflecting the above franchise area and rates, by September 27, 1993; and it is

FURTHER ORDERED, that this Order NISI will be effective August 27, 1993, unless

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the Commission orders otherwise prior to that date.

By order of the New Hampshire Public Utilities Commission this twenty-third day of July 1993.

=====

NH.PUC*07/27/93*[75152]*78 NH PUC 364*Sprint Communications Company of New Hampshire, Inc.

[Go to End of 75152]

Re Sprint Communications Company of New Hampshire, Inc.

DE 93-131
Order No. 20,914
78 NH PUC 364

New Hampshire Public Utilities Commission

July 27, 1993

Order *Nisi* Approving The Addition Of The TDD Discount Program to Sprint's Option A Calling Plan and Minor Text Changes For the Purpose of Clarification.

BY THE COMMISSION:

ORDER

On July 12, 1993, Sprint Communications Company of New Hampshire, Inc. (Sprint) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to add the TDD Discount Program pricing option to the existing Option A Calling Plan; and

WHEREAS, minor text changes were added to clarify the description of the Option A

Calling Plan; and

WHEREAS, the new program will be offered to New Hampshire customers as an "add-on" pricing option service to Sprint's interstate offering; and

WHEREAS, Sprint proposed the filing become effective August 18, 1993; and

WHEREAS, the proposed tariff changes expand the choice of telephone service to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than August 23, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, Sprint cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than August 6, 1993 and it is to be documented by affidavit filed with this office on or before August 23, 1993; and it is

FURTHER ORDERED *NISI*, that the following NHPUC Tariff No. 3 - Intercity Telecommunications Services are approved:

11th Revised Page 1 3rd Revised Page 42.1 4th Revised Page 50;
and it is

FURTHER ORDERED, that Sprint file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective August 26, 1993 unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of July, 1993.

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NH.PUC*07/27/93*[75153]*78 NH PUC 365*Teleworld One Communications, Corp.

[Go to End of 75153]

Re Teleworld One Communications, Corp.

DE 92-214
Order No. 20,915
78 NH PUC 365

New Hampshire Public Utilities Commission

July 27, 1993

Denial of Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On November 4, 1992 the New Hampshire Public Utilities Commission (Commission) received a petition from Teleworld One Communications, Corp. (TOC), a Michigan corporation, in the form of a copy of its "Application for Certificate of Authority" filed with the New Hampshire Secretary of State (petition). TOC indicated in its petition that:

"Per a telephone conversation with your [PUC] office during the month of October, we understood that in order to operate in the State of New Hampshire as a Reseller of Long Distance Phone Services we are required to file a duplicate of our [N.H.] Secretary of State Application [for Certificate of Authority] with you [the PUC]."

WHEREAS, TOC proposed to do business as a reseller of intraLATA, long-distance telephone service; and

WHEREAS, TOC is not organized under the laws of New Hampshire, as required by RSA 374:22; and

WHEREAS, TOC has not responded in writing to Staff's written data requests of November, 17 1992, or to Staff's repeated telephone inquires, regarding data requests; and

WHEREAS, TOC representative Jerry Warden, responding to Staff's telephone inquiry regarding data responses, stated that TOC was:

"No longer a viable telemarketing entity,' and that he would send a letter withdrawing their docket filing."

and

WHEREAS, a letter withdrawing TOC's petition has not been received; it is hereby

ORDERED, that TOC is denied authority to offer intrastate long- distance telephone service in the State of New Hampshire, without prejudice.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of July 1993.

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NH.PUC*08/01/93*[73119]*77 NH PUC 780*NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

[Go to End of 73119]

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

DR 92-187

ORDER NO. 20,694

77 NH PUC 780

New Hampshire Public Utilities Commission

August 1, 1993

Report and Order Approving 1992-1993 Interruptible Load Program

Appearances: Broderick and Dean, by Mark Dean, Esq. for the New Hampshire Electric Cooperative, Inc.; Richard V. de Grasse for Waterville Valley Company, Inc.; Office of Consumer Advocate by Kenneth Traum for residential ratepayers; James T. Rodier, Esq. and Thomas Frantz for the New Hampshire Public Utilities Commission.

REPORT

I. PROCEDURAL HISTORY

On October 2, 1992, New Hampshire Electric Cooperative, Inc. (NHEC or Cooperative), filed with the New Hampshire Public Utilities Commission (Commission) the testimony and exhibits of its consultant, Dennis R. Eicher, supporting NHEC's 1992-1993 Interruptible Load Program. NHEC requested expedited approval of the filing so that it could implement the program by November 22, 1992.

On November 4, 1992, the Commission issued an Order of Notice scheduling a hearing on the merits for November 20, 1992. On November 12, 1992, intervenor Richard V. de Grasse, President of Demand-Side Services, Inc., a consulting engineering and energy service company, filed testimony and exhibits on behalf of Waterville Valley Company, Inc. (Waterville Valley). The Commission, on November 18, 1992, received a letter from Attitash Ski Area supporting NHEC's interruptible load program for the upcoming winter period, but also expressing support for implementation, on a trial basis, of Mr. de Grasse's proposals. A letter supporting Waterville Valley's proposal was received from Black Mountain on December 1, 1992. The staff of the Commission (Staff), NHEC, Mr. de Grasse and representatives of Waterville Valley, met the morning of the hearing to discuss possible settlement. On November 20, 1992, the Commission heard evidence on a Joint Settlement Agreement reached between the parties. The Joint Settlement Agreement, which was not reduced to writing until after the hearing, is attached to this Report as Attachment A.

II. POSITIONS OF THE PARTIES

A. NHEC

In recent years, NHEC's Winter Interruptible Program has been characterized by instability. Prior to the winter of 1990-1991, the Cooperative's Interruptible Program was based on the PSNH Winter Interruptible Load Program, with load determined by regression analysis and control initiated by PSNH. The following two winters the Cooperative designed and directed its own interruptible program. NHEC remarks that another factor contributing to program instability has been, up until the recent signing and approval of a long term power supply agreement with PSNH, the Cooperative's uncertain power supply situation.

NHEC's power supply costs are now known with greater certainty, due to the United States

Bankruptcy Court's conditional approval of the Plan of Reorganization, which settles numerous power supply related issues between NHEC and PSNH.

A new Partial Requirements Agreement specifies the rates, subject to certain adjustments, that NHEC will pay PSNH through November 1, 2006. For 1993, starting January 1, NHEC pays PSNH a customer charge of \$500 per delivery point per month, a demand charge of \$12.50 per kVA, and 4.92 cents per kWh. PSNH bills NHEC based on the sum of the monthly maximum non-coincident demands recorded at each delivery point; the greater of the non-coincident on-peak demand (weekdays from 7:00 a.m. to 8:00 p.m., excluding legal holidays) or one-half of the off-peak demand is used to determine each month's wholesale bill. The monthly billing

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demand is subject to an 11-month, 60% ratchet in 1993 and 1994, which increases to 70% in 1995.

NHEC's proposed 1992-1993 Interruptible Load Program addresses a number of problems encountered with the 1991- 1992 program¹⁽⁴⁰⁾. In the 1991-1992 winter season, the Cooperative had attempted to minimize inconvenience to the participants by limiting the number and length of interruptions. The result was that NHEC did not interrupt service at any time in December 1991, and only interrupted service in January and February 1992 for six hours each month. In addition, NHEC had oversubscribed its interruptible load in the North Conway (Perkins) Substation area. Due the Cooperative's self-imposed restriction on the number and length of interruptions and the oversubscription, more interruptible load had been contracted than NHEC could effectively utilize.

Further, the manner in which the Cooperative called for interruptions - on a system wide basis instead of by each delivery point - caused a reduction in the program's cost effectiveness. NHEC's wholesale billing from Public Service of New Hampshire (PSNH) is based on the non-coincident demand of each delivery point. NHEC also believes that the 1991-1992 incentive was inadequate, which caused participants to operate below a level that enabled the Cooperative to minimize its power supply costs. The 1991- 1992 participants are unhappy with the program because they perceive the program lacks continuity and is subject to modification and/or even termination on an annual basis.

The Cooperative's 1992-1993 Winter Interruptible Program has undergone changes to address all of the past concerns: it has modified its calculation of interruptible load, the magnitude of the credits provided to participants, and the method and frequency of interruption. NHEC proposes two categories of interruptible rates for the 1992-1993 season that it believes will address the problems encountered in last year's program as well as reflect the new Partial Requirements Agreement with PSNH: 1) Code 20 Interruptible Load, under which NHEC may impose a maximum of 20 hours of interruptions per billing cycle and 2) Code 70, under which NHEC may interrupt a total of 70 hours per billing cycle. NHEC also proposes to limit the maximum amount of interruptible load in each category by delivery point. NHEC will limit the billing demand to the on-peak period, which should encourage participants to shift load to the off-peak period.

NHEC states that its proposed newly redesigned rates, which are an extension of the cost of

service analysis submitted and approved by the Commission in DR 92-009, will place more costs in the demand charge for Primary General (Rate PG) and General (Rate G) and contribute to a more effective program. The cost of service analysis indicates that NHEC is collecting less than one-half of the capacity related revenue that the cost of service analysis indicates should be collected through the demand charge.

Rate G participants will receive service under the Secondary Service Interruptible Rate. Rate PG participants will receive service under the Primary Service Interruptible Rate. The rates are based on the results of a cost of service analysis and test year billing determinants that were presented by NHEC and accepted by the Commission in DR 92-009.

NHEC is proposing the following credits:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Primary Service	Secondary Service
Code 20	\$6.25/kVA	\$6.95/kW
Code 70	\$9.30/kVA	\$10.00/kW

NHEC asserts that the participants will receive most if not all the benefits of reducing the wholesale billing demand charges for months when interruptions are called, but that the Interruptible Load Program provides other NHEC members benefits by reducing the effects of the demand ratchet. NHEC also proposes to offer the Interruptible Program year-round so non-ski area customers can participate. The credits are reduced by approximately one-third for non-winter month interruptions. The proposed non-winter rates are:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Primary Service	Secondary Service
Code 20	\$4.20/kVA	\$4.65/kW
Code 70	\$6.25/kVA	\$6.70/kW

B. Waterville Valley Company, Inc.

Waterville Valley is a large ski area served by NHEC. Mr. de Grasse, on behalf of Waterville Valley, proposes that Waterville Valley can cost-effectively manage its own coincident peak load without the need for NHEC to direct Waterville Valley's interruptions. Because Waterville Valley is a sophisticated ski operation with experienced staff, it is able to defer snowmaking load by diesel peak shaving or snowmaking throttling so that it is non-coincident with the local substation peak load, provided 1) NHEC submits real time load information from both the substation and the Waterville Valley ski operations meter via the use of pulse initiators in the meters (at a cost of a few hundred dollars per meter) and 2) NHEC forecasts the upcoming peak load at the substation before the winter interruptible period starts so that Waterville Valley or other ski area participants can plan to avoid the peak target.

Load data recorders that continuously record both the substation and participant load are necessary. Load data recorders cost approximately \$1200 to \$1500 each. Waterville Valley provides custom designed demand monitors, leased telephone lines from the ski area meter to the substation and the substation to the snowmaking control building, an outside telephone line to

access the load data recorder and a trained staff.

NHEC benefits by not having to call for interruptions and shifting the responsibility of load management to the ski area. The ski areas profit by managing their own loads in real-time, by reduced power costs and by the ability to make more cost-effective, long-term decisions concerning snowmaking equipment. Mr. de Grasse suggests that Waterville Valley should not be charged any non-coincident demand charges, but instead should be assessed only energy charges plus the fixed charges associated with NHEC's transmission, distribution and maintenance costs.

For the 1992-1993 winter, Mr. de Grasse suggests that NHEC's proposal proceed as planned, but that his proposal be tested during the 1992-1993 season.

C. Staff

Staff witness Frantz testified in support of the Stipulation except for the redesign of the Primary Service and Secondary Service interruptible rates that NHEC proposes. Staff does not believe that for the purpose of making the program more easily administered the few customers in the Rate G or Rate PG class who participate in the Interruptible Load Program should see a different rate structure than other Rate G or Rate PG customers even though the redesign moves rates closer to their underlying costs.

D. The Stipulation

The Stipulation, supported by NHEC, Mr. de Grasse for Waterville Valley and Staff, is appended to this Report as Attachment A. It proposes to implement the NHEC Interruptible Load Program as filed, to implement and test real-time pricing at Waterville Valley to the extent feasible, and to consult with Mr. de Grasse and Staff on the analysis of the load data from this year's program in order to evaluate alternatives such as proposed by Mr. de Grasse for next year. NHEC will file its 1993-1994 proposal on or before August 1, 1993.

III. COMMISSION ANALYSIS

The Commission recognizes the importance of interruptible load control as a cost effective way to reduce the wholesale billing demand of the Cooperative. Despite the constraints the Cooperative was under at the time, we are disappointed that the 1991-1992 Interruptible Load Program achieved such poor and ambiguous results. By the Cooperative's own estimate, NHEC's 1991-1992 Program reduced the wholesale power bill anywhere

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from only \$27,519 in the low scenario to \$151,772 in the high scenario while the participants received \$166,762 in interruptible credit. NHEC's frank appraisal of last year's program is evident in its 1992-1993 proposal.

This year's Interruptible Load Program proposal reinforces our view of the importance of proper cost reflective rate design. For the first time in many years the Cooperative has a long-term supply of power at known prices. This creates the foundation for NHEC to design and implement programs that reduce costs to its customers. Cost reflective rates help ensure that the costs of a program will be no greater than the value the program brings to the utility.

We agree with Staff that the same results of the Interruptible Load Program could be

achieved without modifying the current rate designs of Rate G and Rate PG for those participating in this year's program. Those changes should be incorporated into NHEC's next rate design proposal. Due to the imminent start of the program and the expectations of the participants about the structure of the 1992-1993 Interruptible Load Program we will allow NHEC to proceed with the credits based on the redesigned rates.

Our approval of the Stipulation will reward directly those contributing to a reduction in NHEC's monthly billing demand. NHEC's other customers will receive the indirect benefit of a lower power bill from reduced ratchet related demand charges in non-control months. We will expect NHEC to file a report on the results of the 1992-1993 Interruptible Load Program, including the experimental real-time pricing proposal of Mr. de Grasse, no later than June 1, 1993. As stated in the Stipulation, we will expect NHEC to file by August 1, 1993, its 1993-1994 Winter Interruptible Program.

Our order issues accordingly.

ORDER

In consideration of the foregoing report, which is made a part hereof; it is hereby

ORDERED, that the proposal by New Hampshire Electric Cooperative to offer two categories of interruptible load, Code 20 and Code 70, is approved; and it is

FURTHER ORDERED, that the New Hampshire Electric Cooperative's program be offered to participants on a special contract basis for this program year; and it is

FURTHER ORDERED, that New Hampshire Electric Cooperative work with Waterville Valley during the winter and report to the commission the results of the testing of the real-time pricing proposal at Waterville Valley by June 1, 1993; and it is

FURTHER ORDERED, that New Hampshire Electric Cooperative file next year's interruptible load program no later than August 1, 1993.

FOOTNOTE

¹The analysis and results of the 1991-1992 Interruptible Load Program are discussed in an April 21, 1992 report prepared by Mr. Bill Bayard of NHEC. It is entitled Report on the Results of the 1991-1992

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NH.PUC*08/02/93*[75154]*78 NH PUC 365*Generic Investigation into Intralata Toll Competition Access Rates

[Go to End of 75154]

Re Generic Investigation into Intralata Toll Competition Access Rates

DE 90-002
Order No. 20,916

78 NH PUC 365

New Hampshire Public Utilities Commission

August 2, 1993

Report and Order Accepting the Modified Stipulation Agreement.

Appearances: As previously noted.

BY THE COMMISSION:

REPORT

I. *Introduction.*

On June 3, 1993, the Commission issued Report and Order No. 20,864 (Order) approving a settlement agreement setting out, *inter alia*, the transition to intrastate toll competition in New Hampshire and a schedule of access rates to be paid to the Local Exchange Companies entered into by Staff and the parties to this proceeding. However, the Order approving the agreement was conditioned on certain modifications necessary to protect the public interest based on the record of the proceeding to date.

The Order provided that any signatory to the Stipulation and Agreement could object to the modifications and hearings would resume in this proceeding to complete the record. All of the signatories accepted the conditions. However, New England Telephone and Telegraph Company (NET) sought to reserve certain rights detailed in a letter dated July 7, 1993.

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NET sought to reserve the right to request review of the continued appropriateness of the modified access schedule.

At the duly noticed Commission meeting held on July 19, 1993, we orally indicated our acquiescence to these conditions and asked the signatories to resubmit the Stipulation and Agreement to reflect both the Commission's and NET's modifications. On July 29, the signatories resubmitted the Modified Stipulation and Agreement. *See*, Attachment A.

II. *Commission Analysis.*

We have reviewed the Modified Stipulation and Agreement and find it reflects the aforementioned modifications and is in the public good. The Modified Stipulation and Agreement is, therefore, approved and shall govern New Hampshire's transition from a monopoly to a competitive intrastate toll market. However, we retain jurisdiction over this matter to ensure the emergence of a competitive intrastate toll market and the public good.

Our order will issue accordingly.

Concurring: August 2, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Modified Stipulation and Agreement Between the Parties of July 29, 1993, appended hereto as Attachment A is approved.

By order of the New Hampshire Public Utilities Commission this second day of August, 1993.

ATTACHMENT A

STIPULATION AND AGREEMENT BETWEEN THE PARTIES

I. INTRODUCTION

A. Procedural History

On December 4, 1987, Long Distance North of New Hampshire, Inc. (LDN) filed a petition for a franchise to operate as a reseller of long distance telephone service in the State of New Hampshire and the New Hampshire Public Utilities Commission (Commission) opened docket DE 87-249. On January 4, 1990, AT&T Communications of NH, Inc. (AT&T) filed a petition to provide certain intrastate toll services in New Hampshire and the Commission opened docket DE 90-002. Shortly thereafter, MCI Telecommunications Corporation of New Hampshire (MCI) and Sprint Communications Company of New Hampshire, Inc. (Sprint) filed similar petitions, and dockets DE 90-108 and 90-127 were opened. On June 7, 1990, the Commission issued Report and Order No. 19,853 which consolidated the four dockets and established DE 90-002 as a generic investigation into telecommunications competition.

After notice, the Commission granted intervention to interested parties and established a procedural schedule. The parties to this docket are AT&T; LDN; MCI; Sprint; Bretton Woods Telephone Company (BWT); Dunbarton Telephone Company, Inc. (DTC); Granite State Telephone Inc. (GST); Merrimack County Telephone Company (MCT); Wilton Telephone Company, Inc. (WTC); Chichester Telephone Company (CTC); Kearsarge Telephone Company (KTC); Meriden Telephone Company, Inc. (MTC); Union Telephone Company (UTC); Contel of NH, Inc., d/b/a GTE NH and Contel of Maine, Inc., d/b/a GTE ME (collectively GTE); New England Telephone and Telegraph Company (NET); the Office of Consumer Advocate (OCA); Business and Industry Association (BIA) and the Commission Staff (Staff). Atlantic Connections, Ltd. (ACL) filed a motion to intervene but failed to appear or to participate in the docket. Dixville Telephone Company (Dixville) was provided notice of this docket but has chosen not to appear or participate.

The signatories to this Stipulation and Agreement, (the Signatories) have actively participated in the production of testimony and discovery, presentation of evidence before the Commission and extensive negotiations to resolve these issues without resort to further litigation.

On January 21, 1991, the Commission issued Order Nos. 20,039, 20,040, 20,041, and 20,042 granting LDN, AT&T, MCI and Sprint,

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respectively, "interim" authority to provide intrastate toll services and required NET to extend its access tariff to accommodate the approved competitive services. On March 20, 1991,

effective March 21, 1991, NET filed interim intrastate access tariffs in compliance with these orders.

On January 17, 1992 the Signatories filed with the Commission a Stipulation and Agreement (the 1/17/92 Stipulation), attached hereto as Attachment 1 which identified the matters for consideration in hearings before the Commission and set other matters for determination in workshops or other proceedings in the future. In addition, the Signatories stipulated that competitive toll entry should be authorized on a trial basis for two years from the date of NET's permanent access tariff. The 1/17/92 Stipulation was approved by the Commission at its public meeting on January 20, 1992. By Order No. 20,528 (July 2, 1992) the form and administration of access settlements was explicitly identified for litigation in this phase of the proceeding.

By Report and Order No. 20,608 (September 21, 1992), the Commission designated certain Staff members as Staff Advocates and other Staff members as Decisional Employees, all pursuant to N.H. Admin. Rules, Puc 203.15. In addition, the Commission contracted for assistance from an outside law firm specializing in telecommunications issues.

Hearings on the merits commenced September 22, 1992 and continued on certain days in October, November and December 1992. After 15 hearing days, the Signatories renewed their efforts to resolve this phase of the docket. In order to facilitate such discussions, the Commission granted the Signatories' request to use hearing dates scheduled for January and February, 1993 for extensive negotiations. This Stipulation and Agreement is a result of those discussions.

This Stipulation and Agreement was filed on March 16, 1993. After an evening hearing to receive comments from the public and two evidentiary hearings on the terms of the Stipulation and Agreement, the Commission on June 10, 1993 issued Report and Order No. 20,864. The order conditionally accepted the Stipulation and Agreement, lowering the access rates for NET, stating that NET's access rates should reach the interstate level by July 1, 1996, directing Staff to closely monitor the MTS-B market, and changing the timing of unbundling and 1+ presubscription proceedings. The Commission granted the parties until June 25, 1993 to accept or reject its modifications, in which case the matter would go back into hearings as if the Stipulation and Agreement had never been reached.

NET asked that it be given until July 16, 1993 to respond to the Commission's modifications. All parties concurred in an extension request, though the IXCs asked that the extension be for a lesser period of time. The Commission granted NET's request. On July 7, 1993 NET filed its response, stating that it would accept the modifications and conditions of Order No. 20,864, subject to two conditions of its own. NET's letter is attached hereto as Attachment 7. All other Signatories accepted the Commission's modifications; no one opposed the two conditions set forth by NET.

The only opposition to Order No. 20,864 was filed by ACL, a non-party. By letter dated July 2, 1993 ACL submitted a request that the Commission further reduce access rates, arguing among other things that the access rates reductions were too slow, originating and terminating access should be equal, access rates should be made time of day sensitive and there was no evidence that the price of access should be higher than the cost of access. The Commission, at its public meeting on July 19, 1993 stated that nothing in ACL's submission led it to change the terms of Order No. 20,864. The Commission voted to accept the conditions set forth by NET and

asked the parties to develop a new document which would incorporate all changes called for in Order No. 20,864 and establish a new timetable for filing of tariffs. This modified Stipulation and Agreement with Attachments 1 through 7 replaces the March 16, 1993 Stipulation and Agreement with Attachments 1 through 6.

B. Definitions

For the purposes of this document, the following definitions shall apply:

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1. "Access Services" are the components of the LEC network and/or LEC facilities which a toll provider must purchase in order to obtain use of the LEC network to provide intrastate toll services.

2. "Independent Telephone Company" or "ITC" means Bretton Woods Telephone Company, Chichester Telephone Company, Dixville Telephone Company, Dunbarton Telephone Company Inc., Granite State Telephone, Inc., Contel of NH, Inc., d/b/a GTE NH, Contel of Maine, Inc., d/b/a GTE ME, Kearsarge Telephone Company, Meriden Telephone Company, Inc., Merrimack County Telephone Company, Union Telephone Company and Wilton Telephone Company, Inc., their respective successors and assigns.

3. "Interexchange Carrier" or "IXC" means a telecommunications provider that is authorized by the Commission to provide toll services on an interim basis within the State of New Hampshire.

4. "Local Exchange Telephone Company" or "LEC" means one of the ITCs or NET.

5. "Retail Service" means basic exchange telephone service and other intrastate retail telephone service offerings, including intrastate toll services.

6. "Toll Provider" means a provider of intrastate toll services and shall include any IXC, reseller of toll services and LEC provider of toll services.

II. TIME FRAME, RESERVATION OF RIGHTS AND FILING PROCEDURES

A. As provided in the 1/17/92 Stipulation, competition in the provision of intrastate interexchange telecommunications services will undergo a two-year trial period commencing October 1, 1993 and ending September 30, 1995 (the Trial Period). The provisions of this Stipulation and Agreement shall be effective as provided in this Stipulation and Agreement.

B. The Signatories propose that, in approving this Stipulation and Agreement, the Commission adopt the filing procedures set forth below for the scheduled intrastate switched access rates referenced in Section III and adopt the intrastate toll rules set forth in Section IV.

C. Upon conclusion of the Trial Period, any Signatory may submit written comments and/or reply comments to the Commission with copies to all members of the service list in this docket as to its observations and conclusions regarding the Trial Period and recommendations, if any, as to the issues raised in this docket, including the structure and level of intrastate access rates after June 30, 1997, and the structure and level of any intrastate access rates modified by Commission Order No. 20,864 during any time period that such modified access rates are in effect. The comment and reply comment schedule will be established by the Commission.

D. Upon conclusion of the Trial Period, any Signatory is entitled, if it so requests, to a hearing before the Commission as to issues in the docket including but not limited to: (i) the continuance of competition in the provision of intrastate interexchange telecommunications services; and (ii) structure and level of switched access rates after June 30, 1997, and the structure and level of any intrastate access rates modified by Commission Order No. 20,864 during any time period that such modified access rates are in effect.

E. After review of the data collected from the Trial Period, comments and hearings, if any, the Commission shall promptly address any "interim" authority that has been granted to intrastate telecommunications providers.

F. On or before August 16, 1993, NET shall file tariffs for effect October 1, 1993, reflecting changes in intrastate switched access charges stipulated in Section III. On or before

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September 3, 1993, all other LECs shall file tariffs for effect October 1, 1993, reflecting changes in intrastate switched access charges stipulated in Section III. No later than May 1, 1994, 1995 and 1996, each LEC shall file changes in intrastate access rates as specified in Section III A. and III B. 1. a. below.

III. INTRASTATE SWITCHED ACCESS CHARGES - STRUCTURE/RATE LEVELS

A. New England Telephone

Subject to the conditions contained in Section II, effective October 1, 1993, NET will commence a four-step process of lowering its existing total intrastate originating and terminating switched access charges as follows:

1. Total Non-800 Access Rates

Effective Date	Total	Originating	Terminating
10-01-93	\$.16	\$.12	\$.04
07-01-94	.12	.08	.04
07-01-95	.08	.04	.04
09-30-95	End of Trial Period		
07-01-96	INTERSTATE RATES		

2. Total 800 to WAL Access Rates

Effective	Terminating	Date	Total	Originating	to WAL
10-01-93	\$.14	\$.04	.10	07-01-94	.12
			.04	07-01-95	.08
			.04	07-01-95	.10
			.06	09-30-95	
			End of Trial Period		
			07-01-96	INTERSTATE RATES	

3. Total 800 to Common Line Access Rates

Effective	Terminating	Date	Total	Originating	Common Line
10-01-93	\$.08	\$.04	.04	07-01-94	.08
			.04	07-01-95	.04
			.04	07-01-95	.08
			.04	09-30-95	
			End of Trial Period		
			07-01-96	INTERSTATE RATES	

NET shall file intrastate access tariffs identifying the individual rate elements as illustrated in Attachment 2. Pricing of these rate elements shall remain in effect unless otherwise ordered by the Commission after notice and hearing. Any Signatory shall have the right to petition the Commission to change the NET rate element structure to reflect any changes in the NET

interstate rate element structure, such as the possible restructure of local transport. Agreement on the rate level in Attachment 2 does not constitute agreement on the use of any particular costing methodology.

Movement of NET's intrastate access rates in the direction of costs and toward interstate levels is a desirable objective. Other desirable objectives include but are not limited to universal service, rate stability, fairness, and the reasonable opportunity to recover revenue requirement.

B. Independent Local Exchange Telephone Companies

Subject to the terms and conditions contained in Section II and Attachments 3-A through 3-J, effective October 1, 1993, each ITC will commence a four-step process of lowering its existing total intrastate originating and terminating switched access charges as follows:

1. From October 1, 1993 through June 30, 1997, each ITC will file and bill total intrastate originating and terminating switched access rates set under one of the following options:

a. Charging total intrastate originating plus terminating switched access rates for such ITC set forth in the following schedule:

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Effective

Date	GTE	KTC	CTC	MTC	GST	MCT	DTC	WTC	BWT	UTC
10-01-93	\$.18	\$.17	\$.18	\$.18	\$.175	\$.18	\$.18	\$.18	\$.18	\$.175
07-01-94	.18	.17	.17	.17	.17	.18	.17	.17	.17	.17
07-01-95	.18	.17	.17	.17	.17	.18	.17	.17	.17	.17
09-30-95	End of Trial Period									
07-01-96	.17	.16	.16	.16	.17	.175	.16	.16	.16	.165

b. Filing and charging total originating plus terminating intrastate switched access rates which are equal to total originating plus terminating interstate access rates in its then effective interstate switched access tariff. For purposes of this provision, the term "then effective interstate tariff" shall mean the charges in effect at the time designated by the tariff filing.

2. From October 1, 1993 to June 30, 1997, any ITC may switch between the options provided in III.B.1.a. and III.B.1.b. above upon 60 days notice to the Commission and customers that purchase intrastate switched access from that ITC. An ITC shall maintain a chosen option for a minimum of 12 months.

3. For the rate filings applicable to the October 1, 1993 to June 30, 1997 time period under Section III.B.1. above, the individual rate elements shall be as filed and identified in the ITC rate filing.

4. ITCs may file and provide support for intrastate switched access charges other than those provided above which would be subject to Commission approval and which may not be effective prior to July 1, 1996.

5. Intrastate switched access rates after June 30, 1997 shall be subject to any lawful Commission action to adjust them.

6. Movement of each ITC's intrastate access rates in the direction of its costs is a desirable objective. Other desirable objectives include but are not limited to universal service, rate stability, fairness, and the reasonable opportunity to recover revenue requirement. Whether movement toward interstate rates should be undertaken on and after July 1, 1997 may be considered following conclusion of the Trial Period. No Signatory however, is committing to any movement by ITCs toward interstate rates, and no presumption is intended that any such movement must or should occur.

7. Except as otherwise provided in Sections II. F., III B. and Attachments 3-A through 3-J, until July 1, 1996, tariff changes may be implemented upon 60 days notice to the Commission and purchasers of its intrastate Access Services. Notices and filing dates for filings for rate changes designed to be effective after June 30, 1997 shall be governed by statutes and rules in effect at that time.

8. Between October 1, 1993 and July 1, 1996, each ITC shall use its own interstate switched access tariff language or the NET intrastate switched access tariff language as the primary basis for its intrastate switched access tariff language.

9. Intrastate non-recurring access charges shall be reflected in each ITC's access tariff at the same rates as are reflected in that ITC's interstate access tariff, unless other non-recurring rates are approved by the Commission.

10. The Signatories recommend that the Commission instruct any ITC not identified in Section III. B. 1. a. to file an access tariff for Commission approval for effect no later than October 1, 1993.

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C. The rate changes delineated in subsections A and B herein will occur irrespective of the results of the analysis of competition at the conclusion of the Trial Period.

D. An intrastate end user common line charge (EUCL) will not be adopted. Signatories reserve their rights to argue whether a EUCL should be implemented after June 30, 1997.

E. When using LEC facilities or purchasing LEC services to originate and/or terminate intrastate toll traffic, Toll Providers (other than a LEC Toll Provider using its own network) shall purchase intrastate access services. This language shall not be interpreted to restrict resale of an IXC provided toll service, nor to restrict IXCs from using alternative access providers, if and when such alternative access providers are authorized to operate in the state.

F. Upon determination by a LEC that a Toll Provider is using business basic exchange access lines to access the LEC network for the purpose of providing toll service, the LEC shall reclassify those business basic exchange access lines as Feature Group A access lines. The appropriate billing, as specified in the LEC access tariff shall be applied. This provision does not preclude the Commission or the LEC from taking any other action or pursuing any other remedy that may apply in this situation.

IV. TOLL RULES

A. NET shall follow certain rules regarding the rates for retail outward and inward intrastate calling services as specified on Attachment 4.

B. For any ITC providing its own intrastate toll service to customers within its own service territory, the ITC's toll rates shall produce total aggregate revenues which are equal to or greater than a) the ITC's incremental cost of providing toll including access charges paid to other LECs; plus b) the total aggregate access revenues that the ITC would have received under its access tariff if another carrier had carried the same toll traffic.

For UTC and WTC, toll rates for purposes of this provision shall be the toll rates after the application of the credits in these companies' tariffs that are designed to adjust revenue requirement pursuant to their rate cases in NHPUC Docket Nos. DR 90-220 and DR 90-221, respectively. UTC's credit is currently reflected in tariff NHPUC No. 7, Part V - Toll Section 1, Page 1, First Revision superseding Original and may be reflected in successive tariff sheets. WTC's credit is currently reflected in tariff NHPUC No. 5, Part V - Toll and may be reflected in successive tariff sheets.

V. INTRASTATE RETAIL PRICE CHANGES BY NET

Subject to Sections VI.B and VII, NET may change its regulated intrastate Retail Service rates at any time provided:

A. Changes in toll service rates meet the toll rules established in Section IV above and Attachment 4, and do not exceed the sum of (i) applicable NET intrastate toll rates in existence as of the date of approval of this Stipulation and Agreement, plus (ii) the amount of any Local Rate Protection Mechanism surcharge in effect in accordance with Section VI below;

B. Changes in basic exchange service rates, effective on and after October 1, 1995, are governed by statutes and rules in effect at the time of such changes; and

C. Changes in all other intrastate Retail Service rates, effective on and after the date of approval of this Stipulation and Agreement, are governed by statutes and rules in effect at the time of such changes.

VI. INTRASTATE REVENUE POOL ELIMINATION AND LOCAL RATE PROTECTION MECHANISM

A. Pool Elimination and Transitional Revenue Flows

1. The existing LEC pool relating to the provision of LEC intrastate switched Access Services will be terminated effec-

tive October 1, 1993, with each ITC choosing between the following four transitional mechanisms as the ITC converts from a pooling arrangement with NET to an access arrangement.

With the termination of the statewide joint provision of toll service by the ITCs and NET for New Hampshire as a whole, each ITC must arrange for the continued provision of toll service in

its service area. In light of this obligation, the following options have been identified regarding the provision of intrastate Access Services, where in Options IA, IB and IIB the ITC chooses NET, and NET agrees to be selected, as the designated carrier of toll services in the ITC's service territory. If the ITC does not choose Options IA, IB, or IIB, it will utilize Option IIA.

2. Each ITC has the option to choose between Option IA, Option IB, Option IIA, or Option IIB for the provision of intrastate switched Access Services. The options in this Section, VI A. 2. are summaries only, and are governed by Attachments 3-A through 3-J.

a. Option IA - RPAM/F (Revenue Per Access Minute with a Floor)

Beginning October 1, 1993, the ITC may choose Option IA. At any time between October 1, 1993 and June 30, 1997, the ITC may choose only to move from Option IA to Option IIA. At July 1, 1997, the ITC will automatically move to Option IIA if it has not already done so. Once an ITC moves to Option IIA, it cannot return to Option IA or any other option.

The ITC will bill toll at NET's toll rates and will turn all toll revenue resulting from those rates over to NET.

The ITC will bill for and keep revenue from access service provided to all Toll Providers other than NET at the ITC's filed access rates.

For the nine month period beginning October 1, 1993, and each of the twelve month periods beginning July 1, 1994, 1995, and 1996, NET will pay the ITC the greater of (1) the gross settlement paid to the ITC for the year ended December 31, 1992 or (2) an RPAM times the access minutes of use provided by the ITC to NET for that twelve month period. The RPAM will be equal to the total settlement paid by NET to the ITC (per the cost study submitted to NET by the ITC or under schedule payments, per the ITC's Traffic Agreement with NET for 1992) for the year ended December 31, 1992, divided by the number of access minutes of use (as derived from 1992 conversation minute information) provided to NET for the year ended December 31, 1992.

In exercising this option, the ITC and NET shall agree on the specific rates and charges that will be used for monthly billings and payments and the annual true-up required to comply with the computation in (1) and (2) above. Such an agreement may include intrastate access rates and billing and collection contractual charges.

If the effective date of the initiation of state toll presubscription in the ITC's service territory occurs prior to June 30, 1997, the ITC must move to Option IIA upon that effective date.

b. Option IB - RPAM/NF (Revenue Per Access Minute with No Floor)

Beginning October 1, 1993, the ITC may choose Option IB. At any time between October 1, 1993 and June 30, 1997, the ITC may choose only to move from Option IB to Option IIA. At July 1, 1997 the ITC will automatically move to Option IIA if it has

not already done so. Once an ITC moves to Option IIA, it cannot return to Option IB

or any other option.

The ITC will bill toll at NET's toll rates and turn toll revenue resulting from those rates over to NET.

The ITC will bill for and keep revenue from Access Services provided to all Toll Providers other than NET at the ITC's filed access rates.

NET will pay the ITC an RPAM times the access minutes of use provided by the ITC to NET. The RPAM will be equal to the total settlement paid by NET to the ITC (per the cost study submitted to NET by the ITC or under schedule payments, per the ITC's Traffic Agreement with NET for 1992) for the year ended December 31, 1992, divided by the access minutes of use (as derived from 1992 conversation minute information) provided to NET for the year ended December 31, 1992.

In exercising this option, the ITC and NET shall agree on the specific rates and charges that will be used for monthly billings and payments and the annual true-up required to comply with the computation of the annual RPAM amount in the previous paragraph. Such an agreement may include access rates and billing and collection contractual charges.

The initiation of state toll presubscription in the ITC's service territory will have no effect on this option.

c. Option IIA - Bill & Keep

Beginning October 1, 1993, the ITC may choose Option IIA. Under this Option the ITC will interact with NET on the same basis as that under which it will be interacting with other intrastate Toll Providers (e.g., bill NET at the ITC's tariffed switched access rates for those switched Access Services provided NET). All non-tariffed services provided to NET by the ITC (such as any billing and collection services) will be covered by a contract between the ITC and NET.

d. Option IIB - Originating Revenue Cap (ORC)

Beginning October 1, 1993, the ITC may choose Option IIB. At any time between October 1, 1993 and June 30, 1997, the ITC may choose only to move from Option IIB to Option IIA. At July 1, 1997, the ITC will automatically move to Option IIA if it has not already done so. Once an ITC moves to Option IIA, it cannot return to Option IIB or any other option.

The ITC will bill toll at NET's toll rates and turn toll revenue resulting from those rates over to NET.

The ITC will bill for and keep revenue from Access Services provided to all Toll Providers other than NET at the ITC's filed access rates.

The ITC will charge NET for access and billing and collection services provided to NET, with charges for Access Services provided to NET being at the ITC's filed access rates and with charges for billing and collection services provided to NET being at rates agreed to between NET and the ITC under a billing and collection contract.

For at least the first two years under Option IIB (i.e., for the twenty-four months

ended September 30, 1995), the ITC's originating access revenue plus billing and collection revenue will be subject to the ORC. The ORC (which is expressed on a per access minute basis) is equal to the total toll billings of the ITC divided by the originating access minutes, for the year ended December 31, 1992. The sum of the ITC's filed originating access rate (expressed on a per access minute

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basis) plus the billing and collection contract charge (expressed on a per access minute basis) will be set at such levels to ensure that the ORC will not be exceeded.

The billing and collection arrangement between the ITCs and NET will be agreed upon individually between NET and each ITC, such that the ORC will not be exceeded for at least the first two years and will meet the concerns of both companies.

3. NET will finalize its review and approval of each ITC cost study according to the following schedule:

a. For all studies covering years prior to the year ended December 31, 1992, NET will finalize its review and submit its review comments to the ITC involved within 30 days following the date of execution of this Stipulation and Agreement and NET will attempt to resolve all outstanding issues by May 1, 1993, or within 60 days of the receipt of outstanding data.

b. For all studies covering the year ended December 31, 1992, each ITC will submit its study to NET prior to July 1, 1993, NET will finalize its review and submit its review comments to that ITC prior to September 1, 1993, and NET will attempt to resolve all outstanding issues by November 1, 1993.

c. For all studies covering the period ended September 30, 1993, each ITC will submit its study to NET prior to January 1, 1994, NET will finalize its review and submit its review comments to that ITC prior to March 1, 1994, and NET will attempt to resolve all outstanding issues by May 1, 1994.

d. All outstanding disputes will be resolved according to the provisions in each ITC's Traffic Agreement with NET prior to December 31, 1994.

4.

a. All references to the date July 1, 1993 in Attachments 3-A through 3-I shall be deemed to be October 1, 1993.

b. Attachment 3-J, titled Agreement Between Union Telephone Company and New England Telephone and Telegraph Company, is incorporated herein by this reference and shall govern the issues addressed therein, except as provided below in this Subsection VI. A. 4. b. The language in Section I. C. in Attachment 3-J shall be stricken and all dates in the entire Attachment 3-J shall be deemed changed to be consistent with the dates in this Stipulation and Agreement as modified. Commission actions either accepting this Stipulation and Agreement as modified or allowing for implementation of this Stipulation and Agreement as modified shall be deemed approval, by the Commission, of

Attachment 3-J without modification for purposes of any agreements between UTC and NET that are dated March 15, 1993. Except as provided above in this Subsection VI. A.

4. b., if there are any conflicts between Attachment 3-J and any other part of this Stipulation and Agreement (including other attachments), Attachment 3-J shall govern.

4. In the event an ITC and NET's joint provision of toll is terminated, the ITC will continue to have the authority to provide toll service to customers in the service area where the ITC is authorized to operate. Notwithstanding Paragraph 1.4 of the 1/17/92 Stipulation, this provision applies to GTE as well.

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B. Local Rate Protection Mechanism (LRPM)

1. Purpose: The LRPM is designed to provide some protection for existing LECs and their respective successors and assigns, who must maintain basic exchange rates adhering to the concept of Universal Service as they face changing market structure and conditions, including, but not limited to, the elimination of intrastate toll settlements, and reliance on access charges. LRPM support is designed to compensate a LEC for its costs of regulated intrastate services that exceed its revenues from regulated intrastate toll and Access Services, adjusted for the local revenue target per access line, as described below.

2. Funding of LRPM: Except as noted below, the LRPM will be funded by a uniform surcharge on total intrastate

toll and regulated Retail Service billings provided by all telecommunications providers in the State of New Hampshire. Until the total LRPM funding requirement is forecasted by the Administrator to exceed \$300,000 annually, the LRPM will be funded solely by intrastate toll services. Once the funding requirement exceeds \$300,000 annually, the LRPM will be funded by total intrastate toll and regulated Retail Services.

Any LRPM surcharge shall be in addition to intrastate toll and regulated retail rates.

A provider of intrastate toll and/or regulated Retail Services has the option to pay its portion of the LRPM fund (as determined by the administrator) in a lump sum at the start of each LRPM year instead of applying the uniform surcharge to periodic billings and remitting the surcharge revenues on a monthly basis.

If a provider of intrastate toll and/or regulated Retail Services fails to transmit its portion of the LRPM funding to the administrator, the LRPM funding from that provider will be funded through surcharges on total intrastate access billings to that provider pursuant to procedures approved by the Commission.

3. LRPM per access line calculation: The LRPM per access line will be calculated annually for each LEC by the LRPM administrator and will be based on the prior calendar year's financial and access line data filed with the Commission by the LEC. The new annual uniform surcharge and LRPM per access line will be effective September 1 of the year following the basis year of the annual calculation (e.g., 1993 data will be used to set the uniform surcharge and LRPM per access line for the twelve months starting September 1, 1994). The uniform surcharge and LRPM per access line once calculated by the administrator will remain at the same level until

recalculated by the administrator the following year.

The calculation of the LRPM per access line per month for each LEC will be as follows:

- Average CostSchedule CompanyCompany
- 1Total Company Cost of Regulated Activities, per Access Line TCC TCC
 - 2Less: Interstate Cost, per Access Line Study Schedule
 - 3Total Company Cost of Regulated Intrastate Activities, per Access Line TSC TSC
 - 4Less: Intrastate Revenue from Regulated Access Services, per Access Line SAR SAR
 - 5Less: Intrastate Revenue from Regulated Toll Services, per Access Line STR STR
 - 6Less: RPAL RPAL RPAL
 - 7LRPM per Access Line (Not less than \$0) LRPM LRPM

For items 1-7 above, forms which the LECs shall use in reporting information required to support the LRPM calculation are attached hereto as Attachment 5, Local Rate Protection Mechanism Report.

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4. Calculation of TCC: The Total Company Cost of Regulated Activities per Access Line per month ("TCC") will be determined annually for each LEC based on the prior year's financial and access line data filed with the Commission by the LEC. The percent increase in the annual TCC will be subject to an increase threshold equal to 60 percent of the percent increase in the Gross Domestic Product Price Index as published by the Commerce Department over the prior year (GDP-PI Threshold). If the actual TCC for a LEC is less than the prior year's TCC adjusted to reflect the GDP-PI Threshold, the LEC must use its actual TCC in its LRPM calculation. If a LEC requests a percent increase in the TCC greater than the GDP-PI Threshold, additional documentation from the LEC involved must be submitted to the Commission before LRPM funding above the GDP-PI Threshold will be made. If, as a result of using actual costs, the percentage increase in the TCC for a particular LEC exceeds the GDP-PI Threshold over the same period and that LEC wishes to seek LRPM funding for the costs above the GDP-PI Threshold, the LEC shall notify the Commission prior to March 31 of the reason for the increase above this level (e.g., changes to telecommunications infrastructure; entering the toll business as a designated carrier and beginning to pay access charges to other LECs; changes in federal, state or local taxation rates and procedures) and request inclusion of the increase over the GDP-PI Threshold. The Staff shall notify the LEC before May 1 whether Staff has determined that the reasonableness of the inclusion in the LRPM of any portion of such increase in costs over the GDP-PI Threshold should be subject to further Commission review. If no such notification is issued, the actual cost increase will be incorporated in the calculation of the TCC. If the matter is referred by Staff to the Commission for further review, such review shall be completed by the Commission and its order thereon shall be issued before July 15. To the extent that the Commission agrees with a Staff recommendation to not allow the LEC to utilize a portion or all of the actual cost changes above the GDP-PI Threshold, the increase in the LEC's TCC from the

prior year will be modified in accordance with the Commission order. If the LEC does not notify the Staff of its intent to use the higher actual cost amount, the amount of the LEC's actual costs included in the calculation of the TCC for the study year will be limited to the prior year's TCC increased by the GDP-PI Threshold.

5. Modification of Interstate Cost: The Interstate Cost per Access Line per month (determined either by a cost study or schedule amount) will be adjusted by the same ratio that the TCC is adjusted if the TCC is modified to an amount which is different than actual cost, per the prior paragraph, such that $(TCC \text{ (adjusted)}/TCC \text{ (unadjusted)}) \times \text{Interstate Cost (unadjusted)} = \text{Interstate Cost (adjusted)}$.

6. Definition of SAR: The State Access Revenue ("SAR") is the intrastate regulated access revenue booked by the LEC in Account 508X, in the prior calendar year.

7. Definition of STR: The State Toll Revenue ("STR") is the intrastate regulated toll revenue booked by the LEC in Account 51XX, in the prior calendar year.

8. RPAL Calculation for ITCs: The target local service Revenue Per Access Line ("RPAL") for an ITC will be determined annually based on NET's actual rates for residence (1FR) and business (1FB) basic local service for similarly situated exchanges (e.g., equivalent rate groups), weighted by the ITC's number of residence and business lines. The RPAL calculation for each ITC is as follows: (i) the NET basic local residential

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rate that would apply if the exchange were provided NET local service (R) times the percentage of the ITC's access lines that are residential (R%), plus (ii) the NET basic local business rate that would apply if the exchange were provided NET local service (B) times the percentage of the ITC's access lines that are business (B%); such that $RPAL = (R \times R\%) + (B \times B\%)$. The percentage of access lines provided by the ITC that are residential plus the percentage of access lines provided by the ITC that are business will equal 100%.

9. RPAL Calculation for NET: The target local service RPAL for NET will be determined annually based on NET's statewide average residence (1FR) and business (1FB) basic local service rates in New Hampshire weighted by NET's number of residence and business lines, times 1.75, which reflects the same approximate difference (75%) that actual ITC exchange rates fall below their RPAL target. The RPAL calculation for NET is as follows: (i) the statewide weighted average NET basic local residential rate (RR) times the percentage of NET access lines that are residential (R%) plus (ii) the statewide weighted average NET basic local business rate (BR) times the percentage of NET access lines that are business (B%), times 1.75; such that $RPAL = ((RR \times R\%) + (BR \times B\%)) \times 1.75$. The percentage of access lines provided by NET that are residential plus the percentage of access lines provided by NET that are business will equal 100%.

10. Target RPAL: The RPAL will be used only for the purpose of calculating the LRPM and will not create a presumption that local rates of any LEC should be set at the target RPAL amount.

11. Timetable for Collection and Disbursement: The LRPM calculation will be performed

annually and the resulting surcharge amount published no later than August 1 by the administrator. The initial calculation will be made in 1994 based on calendar year ended December 31, 1993 operations. The initial LRPM funds will be collected during September 1994. The initial disbursements of LRPM funds by the administrator to any qualifying ITCs will begin in October 1994, at the earliest. NET shall not be eligible to begin to receive LRPM payments prior to October 1996.

12. Mechanics of Collection and Disbursement: The LRPM per access line per month amount for a LEC will be paid to that LEC at a uniform amount per month for the LRPM year on the last day of each month based on the count of access lines reported to the administrator by the LEC for the last day of the prior year. The uniform surcharge will be reflected on all bills for intrastate toll and, if applicable, regulated Retail Services and will be paid to the administrator thirty days from the billing date. Any differences in the amount collected through the surcharge and the lump sum mechanisms and the amount paid out through the LRPM mechanism will be utilized to modify the establishment of the total LRPM fund amount in the subsequent year. The treatment of any differences between the amounts collected and disbursed by the administrator will be addressed in the trust fund document identified below. If disbursements exceed available funding at any time, the administrator will be reimbursed from the LRPM fund. Any LEC receiving LRPM payments should record such amounts in sub- account 5069 - Other Local Exchange Revenue Settlements.

13. Cap on LRPM Fund: The LRPM total fund amount for any September-August fund year shall not exceed one-half of one percent times the total intrastate revenue from toll and regulated Retail Services for the previous calendar year. Any changes to this cap will require Commission approval. If the

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LRPM amounts for the LECs exceed this cap such that full LRPM amounts cannot be paid to the LECs, each LEC will receive (i) the first \$50,000 of its LRPM amount, plus (ii) the same proportion of its LRPM amount above the first \$50,000 as each other LEC receives of its LRPM amount above the first \$50,000, such that these reduced amounts equal the balance of the cap.

14. Administration of LRPM Fund: The LRPM will be established through a trust fund document entered into by NET and the ITCs and approved by the Commission, similar to the telecommunications relay service trust fund document. NET will be the LRPM administrator. The administrator shall annually submit to the Commission the amount of the LRPM fund to be collected for the coming year, and the number of LECs projected to be takers from the fund. In addition, the administrator shall be subject to an independent audit if requested by any contributor to the fund or the OCA or ordered by the Commission.

15. Costs of Administration: The reasonable costs of administering the LRPM process will be reimbursed from the LRPM fund.

16. Contributors to Fund: All providers of intrastate toll and/or regulated Retail Services will submit their total annual historical gross intrastate toll and regulated Retail Service billing information on an aggregated basis to the administrator within four months following the close of their fiscal year. Until the \$300,000 level specified in Section VI. B. 2. is reached, only

intrastate toll billing information will be submitted.

17. Commission Review: The Commission may investigate LRPM payments to a particular LEC at any time. The Commission may evaluate the continued appropriateness of the LRPM after July 1, 1997.

18. Eligibility: A LEC shall be eligible to receive LRPM payments if it has filed an access tariff and complied with all other terms of the LRPM fund.

VII. NEW ENGLAND TELEPHONE EARNINGS

A. The Commission will not initiate a show cause any sooner than April 1, 1995 as to NET's earnings level or cost of capital. The result of any show cause shall not become effective prior to October 1, 1995.

B. NET agrees not to initiate a request any sooner than April 1, 1995 for an increase in its existing basic exchange rates. No such increase shall become effective prior to October 1, 1995, except as provided below. As an exception to the foregoing, NET may increase revenue to offset reductions in earnings caused by changes outside of NET's control. Such changes are limited to occurrence of the following events:

1. Taxes. Amendments, revisions or changes to federal or state tax laws, including changes to local taxes, which increase or decrease NET's tax liability. The term "liability" means current or deferred expense or accrual. The term "amendments, revisions or changes in law" means any modifications, amendment, repeal or enactment of any federal or state tax statute, ordinance or regulation or any change in the administrative or judicial interpretation of the operation or effect of any federal or state tax statute.

2. Accounting and other changes. Amendments, revisions or changes in jurisdictional separations rules, commission-designated accounting principles, and changes resulting from legislative, judicial and regulatory actions significantly affecting NET's revenue requirement.

3. Such changes may NOT include those changes which affect earnings due to NET's plan for SFAS-106, Employee's

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Accounting for Postretirement Benefits Other than Pensions and/or Depreciation
Represcriptions.

4. NET agrees to reduce rates to offset increases in earnings caused by occurrence of the preceding events.

5. NET agrees to employ generally accepted accounting principles in its accounting during the Trial Period.

VIII. 10XXX DISCOUNTS

10XXX intrastate switched access will not receive any discount off the rates contained in this Stipulation and Agreement. Signatories reserve their rights to argue whether 10XXX discounts should be implemented after June 30, 1997. This subsection shall not be construed as an

agreement by any party that 10XXX is the equivalent of 1+ access.

IX. LATE PAYMENT CHARGES

The parties agree that any LEC may amend its intrastate retail tariff initiating a schedule of charges to apply for the late payment of amounts on bills previously rendered.

X. UNBUNDLING

A. NET, the IXC's, Staff and OCA agree as follows:

1. The unbundling of network elements for costing and pricing purposes is appropriate. The procedures and methodology to be used for unbundling of various network elements, including the identification of specific network elements which should be offered via tariffs filed with the Commission, are set forth in paragraphs 2 through 5.

2. A uniform methodology should be used to develop the costs of any and all such network elements, and those costs should form the basis for unbundled pricing for such network elements. The unbundled pricing of various network elements need not necessarily be set at the absolute level of costs. It is agreed that the elements of basic exchange services shall be treated in the workshop on a consistent basis with other network elements for costing and pricing purposes.

3. The identification of such various network elements and the non-discriminatory basis on which they should be made available will be determined in the workshop discussed below. The parties are free to argue that specific network elements should not be offered on an unbundled basis. Nothing in this section will be construed as signifying any agreement of the parties on the issue of intraLATA presubscription in New Hampshire. Despite the provision in paragraph 2.2 of the 1/17/92 Stipulation, the Signatories agree that the Commission will determine when proceedings on intraLATA presubscription shall commence and recognize the Commission has complete authority to issue a final order on intraLATA presubscription at its discretion.

4. NET, the IXC's, Staff and OCA have not agreed to any specific details or definitions regarding the various network elements to be unbundled, the circumstances or conditions warranting unbundling, the appropriate costing methodology, and the specific pricing rules to be applied, which will be subject to development and review in the workshop discussed below.

5. The development and implementation of the principles identified above will be delegated to a workshop proceeding, which will be designated with a separate docket and in which the Signatories may intervene and participate. Such a proceeding would consider and make recommendations on the following issues:

a. The specific elements to be identified for unbundling;

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b. The appropriate costing methodology to be used;

c. The specific pricing rules appropriate for the unbundled network elements and the bundled service offerings regulated by the Commission.

6. The Commission shall determine the timing and implementation of the unbundling workshop and related formal proceedings, if necessary, and its ability to move

expeditiously with respect to unbundling.

B. The Signatories agree that the provisions of this Section X shall not apply to ITCs or their networks.

XI. REPORTING AND MONITORING

A. Within 60 days of the end of each calendar quarter, reports shall be filed with the Commission, in accordance with forms to be developed by Commission Staff. The first quarterly report as a result of this Stipulation and Agreement will be due no later than February 28, 1994 and will cover the months of October, November and December 1993.

For each quarter under review, the reports shall contain the following information, reported on a monthly basis, all of which shall be confidential except where otherwise noted:

1. Submitted by LECs:

a. the billed minutes of use for switched originating and terminating intrastate access. This information will be broken out by IXC and by originating and terminating usage;

b. the billed minutes of use and revenue received for switched originating and terminating interstate access, broken out by IXC;

c. the dollar amounts billed to and received from each IXC for intrastate switched originating and terminating access, separately identified, which corresponds to the minutes of use identified in subsection (a) above;

d. any monies paid to and received by a LEC as a result of the floor in Section VI. A, Option IA (not confidential);

e. the number of interstate and intrastate special access arrangements stated by channel capacity, e.g.:

CHANNEL CAPACITYNUMBER IN SERVICE DS0 end to end 0 DS0 to mux
5 DS1 end to end 50 DS1 to mux 50 DS2 end to end 0 DS2 to mux 0 DS3 end to end
75 DS3 to mux 75

f. any LRPM payments made to a LEC (paragraph f. not confidential).

2. Submitted by Toll Providers (including LECs providing intrastate toll service):

a. for each intrastate toll service offered:

1. number of subscribers in NH who have intrastate usage will be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

2. intrastate minutes of use;

3. intrastate revenue;

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4. type of access arrangement used;

5. for services that use different access arrangements (e.g. SDN) the percentage of use relative to each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

6. whether the service is residential or business or both (no. 6 not confidential).

b. On an aggregate basis, intrastate minutes and access charges actually paid to each

LEC;

c. (i) the intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and (ii) the intrastate conversation minutes of use originated, reported separately for special access arrangements;

d. the number of interstate and intrastate special access arrangements stated by channel capacity, e.g.:

CHANNEL CAPACITYNUMBER IN SERVICE DS0 end to end 0 DS0 to mux
5 DS1 end to end 50 DS1 to mux 50 DS2 end to end 0 DS2 to mux 0 DS3 end to end
75 DS3 to mux 75

e. (i) the intrastate conversation minutes of use terminated, reported separately by service, for switched access arrangements, and (ii) the intrastate conversation minutes of use terminated, reported separately for special access arrangements;

f. as a percentage of total intrastate conversation minutes of use, the amount of intrastate traffic that was both originated and terminated over switched access;

g. for each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

1. for non-800 services, originating outbound minutes of use;
2. for 800 services, terminating inbound minutes of use;
3. average call duration;
4. type of access arrangement used (no. 4 not confidential).

h. Percent Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC).

B. Within 3 Months of the End of Each Calendar Quarter:

The following reports shall be filed with the Staff no later than 3 months following the calendar quarter for which that data was collected. The first quarterly report as a result of this Stipulation and Agreement shall be due no later than April 30, 1994 and shall cover the months of October, November and December 1993. Subsequent quarterly reports shall be due no later than June 30, September 30, December 31, and March 31 of the applicable year. The quarterly reports shall contain the following information:

1. Submitted by LECs:

For the quarter under review each LEC shall submit an analysis with supporting documentation, reflecting revenue

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loss or gain for that quarter (not confidential).

2. Submitted by IXC's (including LECs providing intrastate toll service):

None.

C. The reporting requirements of this Section XI shall expire after reports covering the period(s) ending September 30, 1995. Future reporting requirements, if any, shall be imposed by

the Commission through issuance of appropriate rules or other lawful method.

D. The filing of data identified as confidential in this Stipulation and Agreement shall be maintained by the Commission and Commission Staff under procedures that are identical to those under protective agreement entered into in this docket, attached hereto, (Attachment 6) except that the Commission and Commission Staff shall not disclose such data to the other parties in this docket, except upon further order by the Commission following notice and an opportunity for hearing. Within 3 months of the submission of all data covering the first year of trial competition, and within 3 months of the submission of all data covering the second year of the Trial Period Staff shall prepare reports summarizing the data collected to that date for distribution to the Commission, the Signatories and the public. In preparing such reports, the Staff may disclose information identified as confidential herein only if such data is not identified by company and is combined with the same type of data for all other carriers of the same type (i.e., IXC or LEC).

XII. MISCELLANEOUS

A. This Stipulation and Agreement does not constitute a request or consent by any LEC to authorize a telephone utility to operate or provide service in its service territory under permanent authority or under any other authority that extends beyond September 30, 1995.

B. Interexchange carrier Toll Providers shall not be subject to the restriction imposed by Order No. 20,077 (March 11, 1991) that interexchange carrier Toll Providers may not enter into contracts that will have a duration of more than 30 days. During the Trial Period, and until further order of the Commission, all contracts of interexchange carrier Toll Providers which include the provision of intrastate services beyond a 30 day duration shall also state that the provision of intrastate service is subject to the carrier's authorization to provide such service.

C. The Signatories hereto regard stipulations and agreements as an integral and necessary part of the regulatory process. This Stipulation and Agreement contains terms that are interdependent with the others and essential to their own right to the signing of this Stipulation and Agreement. If any modifications or conditions are made to any of the terms of this Stipulation and Agreement, each of the Signatories must be given the right to be placed in the position in this proceeding that it was in before it entered into this Stipulation and Agreement.

D. The Signatories agree that this Stipulation and Agreement is a negotiated settlement of disputed issues and that it shall have no precedential value except in proceedings concerning the implementation and or enforcement of this Stipulation and Agreement.

E. The Signatories to this Stipulation and Agreement hereby waive any rights they may have under R.S.A. 541-A:21, NH Admin. Code, Puc 203.15, and Report and Order No. 20,608 dated September 21, 1992 in this docket, to the limited extent necessary to permit the Staff Advocates to discuss with the Commission and Decisional Employees, the meaning and intent of this Stipulation and Agreement without the participation of other parties. This waiver does not extend to the content and conduct of negotiations which led to this Stipulation and Agreement, including but not limited to confidential information, prior drafts of all or any portion of the Stipulation and Agreement, and the positions and objectives of individual parties, nor shall it apply if

the Commission rejects, modifies or adds conditions to this Stipulation and Agreement.

F. This Stipulation and Agreement may be executed in multiple counterparts, which together shall constitute one agreement.

In witness whereof, the Signatories have executed this Stipulation and Agreement.

James P. Finglas	7/23/93 AT&T Communications of NH, Inc.	Date
Mitchell Knisbacher	7/29/93 Long Distance North of New Hampshire, Inc.	
Date		
Carl D. Geisy	7/29/93 MCI Telecommunications Corp. of NH	
Date		
Lesla Lehtonen of New Hampshire, Inc.	7/29/93 Sprint Communications Company	Date
Nancy Hebert	7/29/93 Bretton Woods Telephone Company	
Date		
Peter Montgomery	7/29/93 Dunbarton Telephone Company, Inc.	
Date		
Hobart Rand	7/29/93 Granite State Telephone, Inc.	Date
Paul Violette	7/29/93 Merrimack County Telephone Company	
Date		
Robert Howard	7/29/93 Wilton Telephone Company, Inc.	Date
Robert J. Collins	7/29/93 Chichester Telephone Company	Date
Robert J. Collins	7/29/93 Kearsarge Telephone Company	Date
Robert J. Collins	7/29/93 Meriden Telephone Company, Inc.	Date
Martin C. Rothfelder	7/29/93 Union Telephone Company	Date
Debra Martone	7/29/93 Contel of NH, Inc., dba GTE New Hampshire	
Date		
Debra Martone	7/29/93 Contel of ME, Inc., dba GTE Maine	Date
Victor Del Vecchio	7/29/93 New England Telephone and	Date
Telegraph Company		
John B. Crosier	7/29/93 Business and Industry Association	Date
Kenneth E. Traum	7/29/93 Office of Consumer Advocate	Date
Kathryn M. Bailey	7/29/93 Commission Staff	Date

LIST OF ATTACHMENTS

ATTACHMENT 1 January 17, 1992 Stipulation and Agreement

ATTACHMENT 2 NET Intrastate Switched Access Rate Elements

ATTACHMENT 3 ITC Options:

- 3-A GTE Contel of NH d/b/a GTE NH
- 3-B KTC Kearsarge Telephone Company
- 3-C CTC Chichester Telephone Company
- 3-D MTC Meriden Telephone Company, Inc.
- 3-E GST Granite State Telephone, Inc.
- 3-F MCT Merrimack County Telephone Company
- 3-G DTC Dunbarton Telephone Company, Inc.
- 3-H WTC Wilton Telephone Company, Inc.
- 3-I BWT Bretton Woods Telephone Company
- 3-J UTC Union Telephone Company

ATTACHMENT 4 NET Toll Rules

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ATTACHMENT 5 LRPM Calculation

- A. Cost Companies
- B. Average Schedule Companies

ATTACHMENT 6 DE 90-002 Protective Agreement

ATTACHMENT 7 NET Letter Accepting Commission Modifications with Reservation of Rights, July 7, 1993

ATTACHMENT 1

STIPULATION AND AGREEMENT BETWEEN THE PARTIES

1. The parties stipulate and agree as follows:

1.1 IntraLATA competitive toll entry shall be authorized by the New Hampshire Public Utilities Commission on a trial basis for certified carriers, including those carriers with interim authorization, for a period of two years commencing on the effective date of NET's permanent access tariff. The existing pooling and settlements process will be modified for average schedule and cost companies in accordance with the Memoranda of Understanding appended as Attachments 1 and 2, respectively, to reflect the provision of access service. Unless sooner terminated pursuant to the workshop process provided for in paragraph 1.9, NET agrees that the existing pooling and settlements process as modified by Attachments 1 and 2 will remain in effect, absent agreement between NET and the other local exchange carriers (LECs) or final valid Commission order to the contrary (which NET agrees not to seek), for a period ending on the sooner of one year from the effective date of NET's permanent access tariff of June 30, 1993 (the "effective period"). NET and the other LECs reserve their respective legal, equitable, administrative and contract rights and remedies with respect to the continuation, modification

and/or termination of the existing pooling and settlements process, except as otherwise specifically set forth in this paragraph and Attachments 1 and 2. NET further reserves its right (i) to provide notice, prior to the expiration of the effective period, of its intention to terminate the pooling and settlements process upon the expiration of the effective period, and (ii) to request that the Commission resolve in the course of the workshop process any disputes that may arise as to the continuation, modification and/or termination of the pooling and settlements process upon the expiration of the effective period.

1.2 Any modifications to NET's tariff filing requirements are to be addressed in DE 91-084.

1.3 Tariff filing requirements for the independent local exchange companies will remain as is (i.e. traditional regulation) unless otherwise requested by an independent and so ordered by the Commission.

1.4 A workshop shall be established in this docket to explore the issues involved in GTE offering intraLATA toll service within and outside its present service territory. If agreement among all of the parties to this docket can be reached, a recommendation on those issues will be made to the Commission. If agreement among all of the parties to this docket is not reached, the workshop will be terminated and GTE shall proceed by separate docket if it chooses to proceed.

1.5 Certification of new utilities will be streamlined, consisting of a correct and complete application form with the understanding that no utilities will be afforded vested rights before the Commission reaches a final decision on intraLATA competitive entry. The application form will be substantially in the form of Appendix II to Staff's comments dated July 3, 1991. One of the purposes of the certification process is to prohibit the purchase of a LEC's wholesale (access) services by end users.

1.6 A workshop will be established to review all monitoring and reporting require-

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ments and the methodology for an assessment of the financial viability of the LECs and to develop contingency plans if a LEC finds itself financially at risk as a result of competition. Data filed by companies in the workshop may be accompanied by requests for confidentiality. No party will be prohibited from examining and presenting market data governing any period prior to the date of competitive authorization. Data and financial forecasting will not be a requirement of the monitoring process.

1.7 A separate docket will be opened with 30 days after the effective date of a permanent access tariff (with a procedural schedule providing for the issuance of the Commission's final order within one year from opening) to evaluate the need to restructure existing local calling areas in New Hampshire, including but not limited to a review of (i) the design of extended area service territories and the pricing thereof, (ii) existing communities of interest (primary calling areas) and (iii) the revenue requirement and rate design implications for LECs of changes in EAS.

1.8 Uniform toll rates statewide are currently in the best interest of the public in New Hampshire, but may be subject to change in the future.

1.9 A workshop comprised of LECs will be formed within 30 days after the effective date of

a permanent access tariff to determine whether agreement can be reached on a preferred form of intraLATA toll compensation among LECs. The LECs will advise Staff on a regular basis as to the status of negotiations. If the LECs are unable to reach agreement within 60 days of commencing this workshop, Staff will be invited to participate in the workshop for the purpose of assisting in further negotiations.

2. The parties recommend the following issues remain, and should be decided by the Commission as it appears no agreement can be reached:

2.1 Access (to be litigated immediately).

- Establish proper access structure and rates.
- Should LECs be required to impute access on their intraLATA toll services? If so, should it be aggregate imputation or should it be disaggregate?
- Universal Service Fund/additional form of compensation between IXC and LECs.
- Whether 10XXX access should be discounted in the absence of 1+ presubscription?

2.2 1+ presubscription to be litigated under a procedural schedule which commences one year from the effective date of a permanent access tariff and which provides for the issuance of the Commission's final order within one year of commencement.

2.3 Filing requirements of IXCs and resellers (to be litigated with paragraph 2.2).

- Is there a statutory limitation?
- Should filing requirements differ between a new service or change in effective tariff?

3. The parties hereto regard stipulations and agreements as an integral and necessary part of the regulatory process. This Stipulation and Agreement contains terms that are interdependent with the others and essential in their own right to the signing of this Stipulation and Agreement. If any modifications are made to the terms of this Stipulation and Agreement the signatory parties must each be given the right to be placed in the position in this proceeding that they were in before the Stipulation and Agreement was entered into.

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4. The parties agree that this stipulation is a negotiated settlement of disputed issues and that it shall have no precedential value nor shall it be used in any other proceeding.

Respectfully Submitted,

STAFF OF THE NEW HAMPSHIRE DATED PUBLIC UTILITIES COMMISSION

OFFICE OF CONSUMER ADVOCATE DATED Attachment 1

Memorandum of Understanding

Intrastate Access Charges Independent Company Settlements for Average Schedule Companies

1) In Accordance with § 1.1 of the Stipulation and Agreement in the Generic Competition Docket, NHPUC Docket No. De 90-002, the local exchange company (LEC) will continue to

concur in New England Telephone's (NET) toll rates and will thus continue to bill the LEC's customers who subscribe to intrastate message toll and private line services from the LEC at NET's rates. Accordingly the Average Schedule Company IntraLATA Toll Services Agreement and attached Exhibits (the Settlements Agreement) will not be modified except as provided in items 2 through 5 below.

2) Intrastate Access Messages and Revenues will not be included in the Average Schedule calculation of Settlement Per Message (SPM). Intrastate Access Messages will not be counted as compensation messages in the B-2 and B-5 schedules.

3) One half of the originating Intrastate Access Messages will be counted as settlement messages in the A-1 schedule in addition to the toll messages of NET that are already being counted under existing settlements.

4) One half of the terminating Intrastate Access Messages will be counted as settlement messages in the A-1 schedule in addition to the toll messages of NET that are already being counted under existing settlements. In those instances where actual measurement is not available, a mutually agreeable surrogate will be developed.

5) Access charges will be collected by the local exchange carriers under a meet point billing arrangement.

This Memorandum of Understanding is separate from the Settlements Agreement and may be cancelled by an Independent Company, upon 60 days prior written notification, without affecting the Settlements Agreement and its provisions. Such cancellation shall apply to Intrastate Access Messages transmitted on and after the effective date of cancellation.

ATTACHMENT 2

Memorandum of Understanding

Intrastate Access Charges Independent Company Settlements for Cost Companies

1) In Accordance with § 1.1 of the Stipulation and Agreement in the Generic competition Docket, NHPUC Docket No. DE 90-002, the local exchange company (LEC) will continue to concur in New England Telephone's (NET) toll rates and will thus continue to bill the LEC's customers who subscribe to intrastate message toll and private line services from the LEC at NET's rates. Accordingly the Cost Company IntraLATA Toll Services Agreement and attached Exhibits (the Settlements Agreement) will not be modified except as provided in items 2 through 4 below.

2) Intrastate access usage of the LEC's facilities by carriers other than NET will be treated as intrastate toll usage in the development of cost study results upon which the LEC's compensation is based.

3) The LEC will bill and collect intrastate access charges from carriers other than NET under a meet point billing arrangement using NET's access rates and will

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submit access revenues received therefrom to NET.

4) The costs of billing and collections services provided by the LEC to an intrastate carrier other than NET will not be included for reimbursement in the LEC's cost study submitted to NET. In excluding these costs, the LEC shall be governed by the separations principles and procedures set forth in the effective National Association of Regulatory Utility s - FCC Separations Manual.

This Memorandum of Understanding is separate from the Settlements Agreement and may be cancelled by an Independent Company, upon 60 days prior written notification, without affecting the Settlements Agreement and its provisions. Such cancellation shall apply to Intrastate Access Messages transmitted on and after the effective date of cancellation.

ATTACHMENT 2NET Intrastate Switched Access Rate Elements

10/937/94 7/95 7/96 ORIGINATING NON-800CARRIER COMMON
 LINE\$0.116280\$0.076280\$0.036280LOCAL
 SWITCHING\$0.001901\$0.001901\$0.001901LOCAL
 TRANSPORT-TERMINATION\$0.001452\$0.001452\$0.001452LOCAL TRANSPORT-PER
 MILE\$0.000015\$0.000015\$0.000015TOTAL @ AVG. MILEAGE\$0.120000\$0.080000\$0.0
 400007/1/96 InterstateTERMINATING NON-800CARRIER COMMON
 LINE\$0.036280\$0.036280\$0.036280LOCAL
 SWITCHING\$0.001901\$0.001901\$0.001901LOCAL
 TRANSPORT-TERMINATION\$0.001452\$0.001452\$0.001452LOCAL TRANSPORT-PER
 MILE\$0.000015\$0.000015\$0.000015TOTAL @ AVG. MILEAGE\$0.040000\$0.
 040000\$0.0400007/1/96 InterstateTOTAL ORIG. + TERM. NON-800
 \$0.160000\$0.120000\$0.0800007/1/96 Interstate

ORIGINATING 800CARRIER COMMON LINE\$0.035703\$0.035703\$0.035703LOCAL
 SWITCHING\$0.002119\$0.002119\$0.002119LOCAL
 TRANSPORT-TERMINATION\$0.001787\$0.001787\$0.001787LOCAL TRANSPORT-PER
 MILE\$0.000016\$0.000016\$0.000016TOTAL @ AVG.
 MILEAGE\$0.040000\$0.040000\$0.040000 07/1/96 InterstateTERMINATING 800CARRIER
 COMMON LINE\$0.095703\$0.075703\$0.055703LOCAL
 SWITCHING\$0.002119\$0.002119\$0.002119LOCAL
 TRANSPORT-TERMINATION\$0.001787\$0.001787\$0.001787LOCAL TRANSPORT-PER
 MILE\$0.000016\$0.000016\$0.000016TOTAL @ AVG. MILEAGE\$0.100000\$0.0800
 00\$0.0600007/1/96 InterstateTOTAL ORIG. + TERM. 800
 \$0.140000\$0.120000\$0.1000007/1/96 Interstate

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ATTACHMENT 3-A to Stipulation and Agreement Docket No. DE 90-002

Contel of New Hampshire d/b/a GTE NH

Subject to the terms and conditions of an Agreement between NET and GTE dated 3/13/93:

1. Effective 7/1/93, the existing toll pooling and settlements process between GTE and NET will terminate, and GTE will file tariffs reflecting intrastate switched access rates in accordance with the following schedule:

DATE ACCESS RATE ORIGINATING RATE TERMINATING
 RATE 07-01-93 \$0.180 \$0.081 \$0.099 07-01-94 \$0.180 \$0.081 \$0.099 07-01-95 \$0.180 \$0.081 \$0.099
 7-01-96 \$0.170 \$0.077 \$0.093

For the rate filings applicable to the 7/1/93 to 7/1/96 time period, the individual rate elements shall be as filed and identified in the GTE rate filing consistent with the overall rate design above.

2. During the term of the 3/15/93 Agreement, for so long as NET is the dedicated toll provider for GTE, NET will make intrastate switched access and billing and collection payments to GTE from July 1, 1993 to June 30, 1997. Correspondingly, for so long as NET is the dedicated toll provider for GTE during the term of the 3/15/93 Agreement, GTE will turn all intrastate toll revenue over to NET.

3. For so long as NET is the dedicated toll provider for GTE, subject to both NET's and GTE's technical capability. NET will offer all existing toll services and any new toll services for which NET and GTE reach agreement on terms and conditions for provisioning and compensation.

ATTACHMENT 3-B to Stipulation and Agreement Docket No. DE 90-002

KEARSARGE TELEPHONE COMPANY

For the period July 1, 1993 through June 30, 1997, KTC shall:

1. select Option IIB in Section VI.A.2 and appoint NET as its designated carrier;
2. set its total intrastate originating plus terminating switched access rate so as not to exceed the amounts set forth in the table contained in Section III.3.1.a;
3. set both (i) its total originating intrastate switched access rate on all non-800 traffic, and (ii) its total terminating intrastate switched access rate on all 800 traffic, equal to its total originating interstate switched access rate in effect from time to time. Such total originating interstate switched access rate is currently \$.0695;
4. residually set both (i) its total terminating intrastate switched access rate on all non-800 traffic, and (ii) its total originating intrastate switched access rate on all 800 traffic, by subtracting from (a) its total intrastate originating and terminating switched access rate in effect from time to time (paragraph 2, above) (b) its total originating interstate switched access rate in effect from time to time (paragraph 3, above).

Based on KTC's current total originating interstate switched access rate and KTC's scheduled total originating and terminating intrastate switched access rate to take effect on July 1, 1993, KTC's total originating and total terminating intrastate access rates to take effect on July 1, 1993 would be as follows:

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Total Intrastate Originating plus Terminating Total Intrastate Non-800 Originating and 800 Terminating Total Intrastate Non-800 Terminating and 800 Originating \$.17 \$.0695 \$.1005

For so long as NET is the dedicated toll provider for ITC, NET will offer new toll services in

ITC's service territory subject to the technical capabilities of both NET and ITC and the ability of ITC and NET to reach agreement (i) with necessary third parties, and (ii) between themselves, on terms and conditions for provisioning and compensation.

ATTACHMENT 3-C to Stipulation and Agreement Docket No. DE 90-002

CHICHESTER TELEPHONE COMPANY

For the period July 1, 1993 through June 30, 1997, CTC shall:

1. select Option IIB in Section VI.A.2 and appoint NET as its designated carrier;
2. set its total intrastate originating plus terminating switched access rate so as not to exceed the amounts set forth in the table contained in Section III.3.1.a;
3. set both (i) its total originating intrastate switched access rate on all non-800 traffic, and (ii) its total terminating intrastate switched access rate on all 800 traffic, equal to its total originating interstate switched access rate in effect from time to time. Such total originating interstate switched access rate is currently \$.0672;
4. residually set both (i) its total terminating intrastate switched access rate on all non-800 traffic, and (ii) its total originating intrastate switched access rate on all 800 traffic, by subtracting from (a) its total intrastate originating and terminating switched access rate in effect from time to time (paragraph 2, above) (b) its total originating interstate switched access rate in effect from time to time (paragraph 3, above).

Based on CTC's current total originating interstate switched access rate and CTC's scheduled total originating and terminating intrastate switched access rate to take effect on July 1, 1993, CTC's total originating and total terminating intrastate access rates to take effect on July 1, 1993 would be as follows:

Total Intrastate Originating plus Terminating	Total Intrastate Non-800 Originating and 800 Terminating
\$0.18	\$.0672\$.1128

For so long as NET is the dedicated toll provider for ITC, NET will offer new toll services in ITC's service territory subject to the technical capabilities of both NET and ITC and the ability of ITC and NET to reach agreement (i) with necessary third parties, and (ii) between themselves, on terms and conditions for provisioning and compensation.

ATTACHMENT 3-D to Stipulation and Agreement Docket No. DE 90-002

MERIDEN TELEPHONE COMPANY

For the period July 1, 1993 through June 30, 1997, CTC shall:

1. select Option IIB in Section VI.A.2 and appoint NET as its designated carrier;
2. set its total intrastate originating plus terminating switched access rate so as not to exceed the amounts set forth in the table contained in Section III.3.1.a;
3. set both (i) its total originating intrastate switched access rate on all non-800 traffic, and (ii) its total terminating intrastate switched access rate on all 800 traffic, equal to its total originating interstate

switched access rate in effect from time to time. Such total originating interstate switched access rate is currently \$.0679;

4. residually set both (i) its total terminating intrastate switched access rate on all non-800 traffic, and (ii) its total originating intrastate switched access rate on all 800 traffic, by subtracting from (a) its total intrastate originating and terminating switched access rate in effect from time to time (paragraph 2, above) (b) its total originating interstate switched access rate in effect from time to time (paragraph 3, above).

Based on MTC's current total originating interstate switched access rate and MTC's scheduled total originating and terminating intrastate switched access rate to take effect on July 1, 1993, MTC's total originating and total terminating intrastate access rates to take effect on July 1, 1993 would be as follows:

Total Intrastate Originating plus Terminating	Total Intrastate Non-800 Originating and 800 Terminating	Total Intrastate Non-800 Terminating and 800 Originating	\$.18	\$.0679	\$.1121
-----------------------------------------------	----------------------------------------------------------	----------------------------------------------------------	-------	---------	---------

For so long as NET is the dedicated toll provider for ITC, NET will offer new toll services in ITC's service territory subject to the technical capabilities of both NET and ITC and the ability of ITC and NET to reach agreement (i) with necessary third parties, and (ii) between themselves, on terms and conditions for provisioning and compensation.

ATTACHMENT 3-E to Stipulation and Agreement Docket No. DE 90-002

GRANITE STATE TELEPHONE , INC.

Effective July 1, 1993, Granite State Telephone, Inc. ("GST") shall:

1. Select Option IIB in Section VI.A.2 effective July 1, 1993 with an ORC of a duration of 24 months and appoint NET as its designated carrier.

2. Set its total intrastate originating plus terminating switched access rate pursuant to the table contained in Section III.B.1.a.

3. Set both (i) its total originating intrastate switched access rate on all non-800 traffic, and (ii) its total terminating intrastate switched access rate on all 800 traffic, equal to its total originating interstate switched access rate in effect from time to time. Such total originating interstate switched access rate is currently \$0.076063.

4. Set both (i) its total terminating intrastate switched access rate on all non-800 traffic, and (ii) its total originating intrastate switched access rate on all 800 traffic, residually by subtracting from its total intrastate originating and terminating switched access rate (2. above) its total originating interstate switched access rate (3. above).

Based on GST's current interstate access rates, the division of originating and terminating intrastate access rates would be as follows:

Total Intrastate Originating plus Terminating	Total Intrastate Non-800 Originating and 800 Terminating	Total Intrastate Non-800 Terminating and 800 Originating	\$0.175	\$0.076063	\$0.098937
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ATTACHMENT 3-F to Stipulation and Agreement Docket No. DE 90-002

MERRIMACK COUNTY TELEPHONE

Effective July 1, 1993, Merrimack County Telephone ("MCT") shall:

1. Select Option IIB in Section VI.A.2 effective July 1, 1993 with an ORC of a duration of 24 months and appoint NET as its designated carrier.
2. Set its total intrastate originating plus terminating switched access rate pursuant to the table contained in Section III.B.1.a.
3. Set both (i) its total originating intrastate switched access rate on all non-800 traffic, and (ii) its total terminating intrastate switched access rate on all 800 traffic, equal to its total originating interstate switched access rate in effect from time to time. Such total originating interstate switched access rate is currently \$0.080969.
4. Set both (i) its total terminating intrastate switched access rate on all non-800 traffic, and (ii) its total originating intrastate switched access rate on all 800 traffic, residually by subtracting from its total intrastate originating and terminating switched access rate (2. above) its total originating interstate switched access rate (3. above).

Based on GST's current interstate access rates, the division of originating and terminating intrastate access rates would be as follows:

Total Intrastate Originating plus Terminating	Total Intrastate Non-800 Originating and 800 Terminating
\$0.18	\$0.080969
\$0.09	\$0.099031

ATTACHMENT 3-G to Stipulation and Agreement Docket No. DE 90-002

DUNBARTON TELEPHONE COMPANY, INC.

Effective July 1, 1993, Dunbarton Telephone Company, Inc. ("DTC") shall:

1. Select Option IIB in Section VI.A.2 effective July 1, 1993 with an ORC of a duration of 24 months and appoint NET as its designated carrier.
2. Set its total intrastate originating plus terminating switched access rate pursuant to the table contained in Section III.B.1.a.
3. Set both (i) its total originating intrastate switched access rate on all non-800 traffic, and (ii) its total terminating intrastate switched access rate on all 800 traffic, equal to its total originating interstate switched access rate in effect from time to time. Such total originating interstate switched access rate is currently \$0.068081.
4. Set both (i) its total terminating intrastate switched access rate on all non-800 traffic, and (ii) its total originating intrastate switched access rate on all 800 traffic, residually by subtracting from its total intrastate originating and terminating switched access rate (2. above) its total originating interstate switched access rate (3. above).

Based on DTC's current interstate access rates, the division of originating and terminating intrastate access rates would be as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Total	Total Intrastate Non-800 Originating plus Terminating	Total Intrastate Non-800 Terminating and 800 Originating
\$0.18	\$0.068081	\$0.111919

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ATTACHMENT 3-H to Stipulation and Agreement Docket No. DE 90-002

WILTON TELEPHONE COMPANY, INC.

Effective July 1, 1993, Wilton Telephone Company, Inc. ("WTC") shall:

1. Select Option IIB in Section VI.A.2 effective July 1, 1993 with an ORC of a duration of 24 months and appoint NET as its designated carrier.

2. Set its total intrastate originating plus terminating switched access rate pursuant to the table contained in Section III.B.1.a.

3. Set both (i) its total originating intrastate switched access rate on all non-800 traffic, and (ii) its total terminating intrastate switched access rate on all 800 traffic, equal to its total originating interstate switched access rate in effect from time to time. Such total originating interstate switched access rate is currently \$0.067539.

4. Set both (i) its total terminating intrastate switched access rate on all non-800 traffic, and (ii) its total originating intrastate switched access rate on all 800 traffic, residually by subtracting from its total intrastate originating and terminating switched access rate (2. above) its total originating interstate switched access rate (3. above).

Based on WTC's current interstate access rates, the division of originating and terminating intrastate access rates would be as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Total	Total Intrastate Non-800 Originating plus Terminating	Total Intrastate Non-800 Terminating and 800 Originating
\$0.18	\$0.067539	\$0.112461

ATTACHMENT 3-I to Stipulation and Agreement Docket No. DE 90-002

BRETTON WOODS TELEPHONE COMPANY, INC.

Effective July 1, 1993, Bretton Woods Telephone Company, Inc. ("BWT") shall:

1. Select Option IIB in Section VI.A.2 effective July 1, 1993 with an ORC of a duration of 24 months and appoint NET as its designated carrier.

2. Set its total intrastate originating plus terminating switched access rate pursuant to the

table contained in Section III.B.1.a.

3. Set both (i) its total originating intrastate switched access rate on all non-800 traffic, and (ii) its total terminating intrastate switched access rate on all 800 traffic, equal to its total originating interstate switched access rate in effect from time to time. Such total originating interstate switched access rate is currently \$0.067539.

4. Set both (i) its total terminating intrastate switched access rate on all non-800 traffic, and (ii) its total originating intrastate switched access rate on all 800 traffic, residually by subtracting from its total intrastate originating and terminating switched access rate (2. above) its total originating interstate switched access rate (3. above).

Based on BWT's current interstate access rates, the division of originating and terminating intrastate access rates would be as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Total Intrastate	Total Intrastate
Total Intrastate Originating plus Terminating	Non-800 Originating and 800 Terminating	Non-800 Terminating and 800 Originating
\$0.18	\$0.067539	\$0.112461

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ATTACHMENT 3J

AGREEMENT BETWEEN UNION TELEPHONE COMPANY AND NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY

This Agreement is between Union Telephone Company, a corporation under the laws of the State of New Hampshire, hereinafter called "Union", and the New England Telephone and Telegraph Company, a corporation under the laws of the State of New York, hereinafter called "NET".

I. PURPOSE AND EFFECT OF AGREEMENT

A. This Agreement is designed to resolve certain issues in the above referenced New Hampshire Public Utilities Commission (NHPUC) docket and to be presented to the NHPUC for its approval in one of the following forms: (1) as a part of a unanimous agreement among all the parties to the docket, (2) as a part of a non-unanimous agreement between Union, NET, and additional parties to this docket, or (3) alone; i.e., this document in its current form. Under any of the foregoing circumstances, this Agreement provides resolution of certain issues as specified herein in the phase of this docket which began hearings in September, 1992. Regardless of whether this Agreement is included in a non-unanimous or unanimous agreement resolving issues in this docket or presented to the NHPUC by itself, Union and NET intend to support it in this docket as the appropriate resolution of the issues addressed herein.

B. This Agreement shall be filed with the NHPUC in one of the forms described in paragraph I.A. above on or before March 22, 1993. The parties acknowledge and understand that it may be

reasonable to agree to amend this date.

C. Union and NET request that the NHPUC approve this Agreement by written order on or prior to April 15, 1993. If such approval comes at a date after April 15, 1993, all July 1, 1993 dates in this Agreement shall move to 75 days after the date of the NHPUC order of approval. All dates for filings and notices related to the July 1, 1993 dates in this Agreement shall move to dates with the same relationship that the original date had to the July 1, 1993 date. All dates providing for the end of time periods for rates, rate filings, and the restrictions of this agreement shall not change based upon the date of an NHPUC order. This Agreement shall be null and void unless approved in its entirety by the NHPUC via written order.

D. NET and Union regard stipulations and agreements like this one as an integral and necessary part of the regulatory process. This Agreement contains terms that are interdependent with the others and essential to their own right to the signing of this Agreement. If any modifications are made to any of the terms of this Agreement, each of the signatory parties must each be given the right to be placed in the position in this proceeding that it was in before this Agreement was entered into.

II. *TERMINATION OF CURRENT TOLL AGREEMENT AND SWITCHED ACCESS RATES*

A. The existing joint provision of intrastate toll service between Union and NET, including the toll pooling and settlements process shall terminate on July 1, 1993. In order to carry out this termination, the agreement dated January 1, 1984 and entitled IntraLATA Toll Services Agreement between Union and NET and any amendments thereto; and the agreement dated January 1, 1984 and titled Joint IntraLATA Carrier Systems Agreement and any amendments thereto shall terminate on July 1, 1993. Said termination shall in no way limit parties from any responsibilities or liabilities under these agreements for time periods prior to July 1, 1993.

B. From 7/1/93 through 6/30/97, the level of Union's intrastate switched access rates shall be consistent with one of the following three options:

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1. Union shall file and charge switched access rates for which the sum of the originating and terminating switched access rates is \$.175 from 7/1/93 to 6/30/94, \$.170 from 7/1/94 to 6/30/96, and \$.165 from 7/1/96 to 6/30/97.

2. Union shall file and charge intrastate access rates which are equal to the sum of the originating and terminating rates in its then effective interstate switched access tariff. For the purposes of this provision, the term "then effective interstate tariff" shall mean the charges in effect at the time designated by the tariff filing.

3. Union shall file and provide support for intrastate access charges other than those provided above which would be subject to Commission approval and which may not be effective prior to July 1, 1996.

C. For the rate filings applicable to the 7/1/93 to 6/30/97 time period, the individual rate elements shall be as filed and identified in the Union rate filing. In addition, if Union does not provide toll service, the design of Union's switched access rates shall be restricted as follows:

1. If the sum of originating and terminating switched access rates is \$.175, \$.170, or \$.165 per minute pursuant to the option provided by Subsection II.B.1. above, the rates shall be consistent with the design reflected in table 1.

2. If rates are in effect pursuant to the options provided by subsections II.B.2. and II.B.3., the rate design shall be based upon the rate design reflected in Table 1 for the \$0.170 total. If the sum of originating and terminating rates is less than \$0.17 per minute, the amount below \$0.170 shall be subtracted from either the originating or terminating charge of Table 1 or subtracted in two parts from both. If the sum of the originating and terminating exceeds \$0.170, the amount over \$0.170 shall be added to either the originating or terminating rates of Table 1 or added in two parts to both.

D. During the 7/1/93 to 6/30/97 time period, Union may switch between the options in Section II.B. above, except as otherwise restricted, upon 60 days notice to the Commission and customers that purchase intrastate switched access from Union. Notwithstanding the foregoing, Union shall maintain a chosen option for a minimum of 12 months.

E. The rates delineated in Section II.B. and II.C. of this Agreement will not change due to the results of the NHPUC analysis of competition at the conclusion of the Trial Period.

F. An intrastate end user common line charge (EUCL) will not be adopted. Union and NET reserve their rights to argue that a EUCL should be implemented after June 30, 1997.

G. Notices and filing dates for filings for access rate and tariff changes designed to be effective after 7/1/96 shall be governed by statutes and rules in effect at that time.

H. Between 7/1/93 and 7/1/96, Union shall use its interstate switched access tariff language or the NET intrastate switched access tariff language as the primary basis for its intrastate switched access tariff language.

I. Intrastate non-recurring access charges shall be reflected in Union's access tar-

TABLE 1		NON-800 ACCESS		800	
ACCESS	TOTAL	ORIGINATING	TERMINATING	ORIGINATING	TERMINATING
\$0.175	\$0.070	\$0.105	\$0.105	\$0.070	\$0.170
\$0.100	\$0.070	\$0.100	\$0.070	\$0.100	\$0.070
\$0.165	\$0.070	\$0.095	\$0.095	\$0.070	\$0.070

iff at the same rates as are reflected in Union's interstate access tariff.

J. 10XXX intrastate switched access rates for Union will not receive any discount off the rates contained in this Agreement.

III. *PROVISION OF TOLL IN UNION SERVICE AREA*

A. After the termination of the NET and Union joint provision of toll and the toll pooling and settlements process as provided under Section II.A. above, NET is hereby designated to provide toll in the service territory where Union is authorized to operate through 6/30/97, unless such designation is terminated pursuant to the procedure provided herein. NET and Union may agree to NET's not providing certain services in Union's territory due to obstacles to provisioning the service, economic reasons or other criteria. Union may terminate this designation and provide

toll service in its service territory via providing NET and the NHPUC with at least 30 days written notice. Consistent with the foregoing, Union shall continue to have the authority to provide toll service in the service territory where it is authorized to operate.

B. Upon the provision of toll service by NET pursuant to III.A. above, Part V of the Union NHPUC tariff and any successors thereto shall be null and void. In addition, upon such provision of toll by NET, the following sentence related to provision of private line service shall be added to Union's NHPUC tariff, Part IV, Private Line on page 3 and Section V.B. therein:

Union Telephone company concurs with the New England Telephone and Telegraph and Telegraph Company Tariff in rates and regulations for Private Line Service not otherwise addressed in the part IV.

C. NET shall receive the toll revenue related to its provision of toll pursuant to Section III.A. above, subject to the terms and conditions of the Interim Billing and Collection Agreement entered into simultaneously with this agreement by NET and Union or pursuant to any superseding agreement.

D. The designation of NET as the designated toll provider in Union's territory shall terminate for any part of such territory for which presubscription is implemented.

E. Union may designate NET or any other carrier that is authorized by NHPUC to provide intrastate toll as its designated toll provider in Union's service territory for effect at any time after 6/30/97.

IV. MISCELLANEOUS

This Agreement does not constitute a request or consent by Union to authorize a telephone utility to operate or provide service in its service territory under permanent authority or under any other authority. This section is not intended to affect existing rights, if any, which NET or Union may have with respect to the provision or toll service.

IN WITNESS THEREOF, the parties have caused this agreement to be executed in their behalf this 15 day of March 1993.

Witness: UNION TELEPHONE COMPANY

By:

Witness: NEW ENGLAND TELEPHONE

AND TELEGRAPH

By:

July 29, 1993 ATTACHMENT 4

XIII. SCHEDULE A - NET'S TOLL RULES

A. Revisions in Rates for Existing NET IntraLATA Toll Services

With the exception of CallAround 603, Granite State Calling, Circle Calling, and Selective Calling Services and subject to the

filing requirements of Section 8 herein, NET will have the flexibility to adjust the retail rates of its existing intraLATA toll products, as defined below, so long as the average retail revenue per minute for each segment of service, as defined below, remains between the price ceiling and price floor for each segment of service, as described further herein.

In seeking any adjustment to the rates for CallAround 603 or other existing optional toll calling plans NET shall be governed by statutes and Commission Administrative rules in effect at that time, if the change does not otherwise satisfy these pricing rules contained herein.

1. Segment of Toll Services Defined.

For the purpose of these pricing rules, because certain of NET's toll products may compete with interexchange carrier products which use varying access arrangements, NET's intraLATA toll services are segmented and defined as follows:

- a. MTS A: MTS for customers whose monthly volume of outbound intrastate minutes of usage from a customer's location is less than or equal to 1,000;
- b. MTS B: MTS for customers whose monthly volume of outbound intrastate minutes of usage from a customer's location is between 1,001 and 5,000;
- c. MTS C: MTS for customers whose monthly volume of outbound intrastate minutes of usage from a customer's location is between 5,001 and 15,000;
- d. MTS D: MTS for customers whose monthly volume of outbound intrastate minutes of usage from a customer's location is greater than or equal to 15,001;
- e. 800 A: 800 for customers whose monthly volume of inbound intrastate minutes of usage to a customer's location is less than or equal to 4,800;
- f. 800 B: 800 for customers whose monthly volume of inbound intrastate minutes of usage to a customer's location is greater than 4,800;
- g. 800 ValuFlex.

2. Average retail revenue per minute for NET's toll services.

Whenever NET proposes a change to the rates charged to any of the segment of services, as defined in Section A. 1., above, NET will calculate the average revenue per minute (ARPM) for the segment of service as follows:

ARPM = revenue derived from the customers within the segment of service, including revenues derived from message charges over the most recent twelve month period, as repriced at the proposed rates, divided by quantity of minutes of such segment of service over the most recent twelve month period.

3. Price ceiling

The price ceiling for each NET intraLATA toll service will be the retail price of that toll product as of the date of approval of this Stipulation and Agreement.

4. Price floor

A price floor will be calculated for each segment of toll service, as defined in Section A.1, above. The price floor for each segment of toll service, as defined above, will be the price of the relevant form of carrier access (special and/or switched access) which interexchange car-

riers use in order to provide a toll service that competes with the NET segment of toll service, plus the negotiated add-on¹⁽⁴¹⁾. For the purpose of this section, the relevant form of access will be the lowest cost form of access that competitors could purchase in the respective volumes of usage to which the service is targeted.

The price floor for each segment of toll service will be recalculated using the then current prices for switched or special access whenever NET proposes a retail price change of any of the segment of services defined herein.

For the purposes of this section, the relevant form of access will be the lowest cost form of access that competitors could purchase to service customers with the respective volumes of use to which the service is targeted, recognizing that a proxy, derived from combinations of different types of access (as has been done with Segments MTS B, MTS C, 800 A and 800 B), may be necessary to take into account that the lowest cost form of access will vary with such factors as the volume of intrastate traffic, the volume of interstate traffic, customer premise equipment, and the customers' proximity to IXC points of presence.

a. MTS A

1. Relevant form of access.

For this segment of service, the parties agree that the relevant form of terminating access is 100% switched access, and the relevant form of originating access is 100% switched access.

2. Negotiated Add-On

The parties agree that, for the purpose of this stipulation, the negotiated add-on of this segment of service equals \$0.015 per minute.

b. MTS B

1. Relevant form of access

For this segment of service, the parties agree that the relevant form of terminating access is 100% switched, and the relevant form of originating access is 75% switched access and 25% voice-grade special access (DS0).

For the purpose of this document, the parties agree that the cost of originating voice grade special access in this segment of service, less NET's cost of comparable access provisions were it to be providing service, is \$0.039 per minute. The derivation of this amount is more specifically described in Schedule B of Attachment 4.

2. Negotiated Add-On

The Signatories agree that, for the purpose of this stipulation, the negotiated add-on of this segment of service equals \$0.013 per minute.

c. MTS C

1. Relevant form of access

For this segment of service, the Signatories agree that the relevant form of terminating access is 100% switched, and the relevant form of originating access is 100% voice grade special access (DS0).

For the purpose of this document, the Signatories agree that the cost of originating voice grade special access in this segment of service, less NET's cost of comparable access provisions were it

to be providing service, is \$0.027 per minute. The derivation of this amount is more specifically described in Schedule B of Attachment 4.

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2. Negotiated Add-On

The Signatories agree that, for the purpose of this stipulation, the negotiated add-on of this segment of service equals \$0.0075 per minute.

d. MTS D

1. Relevant form of access

For this segment of service, the Signatories agree that the relevant form of terminating access is 100% switched, and the relevant form of originating access is 100% high capacity special access (DS1).

For the purpose of this document, the Signatories agree that the cost of originating high capacity special access in this segment of service, less NET's cost of comparable access provisions were it to be providing service, is \$0.005 per minute. The derivation of this amount is more specifically described in Schedule B of Attachment 4.

2. Negotiated Add-On

The Signatories agree that, for the purpose of this stipulation, the negotiated add-on of this segment of service equals \$0.0075 per minute.

e. 800 A

1. Relevant form of access

For this segment of service, the Signatories agree that the relevant form of originating access is 100% switched, and the relevant form of terminating access is 90% switched access and 10% voice grade special access (DS0).

For the purpose of this document, the Signatories agree that the cost of originating voice grade special access in this segment of service, less NET's cost of comparable access provisions were it to be providing service, is \$0.040 per minute. The derivation of this amount is more specifically described in Schedule B of Attachment 4.

2. Negotiated Add-On

The Signatories agree that, for the purpose of this stipulation, the negotiated add-on of this segment of service equals \$0.01425 per minute.

f. 800 B

1. Relevant form of access

For this service, the Signatories agree that the relevant form of originating access is 100% switched, and the relevant form of terminating access is 10% switched access and 90% special access, of which 66% is voice grade special access and 34% is high capacity special access.

For the purpose of this document, the Signatories agree that the cost of voice grade special access, less NET's comparable access provisions were it to be providing service, is \$0.027 and the cost of high capacity special access, less NET's cost of comparable access provisions were it to be providing service, is \$0.005 per minute. The weighted cost of terminating special access is \$0.020 per minute. The derivation of this amount is more specifically described in Schedule B of Attachment 4.

2. Negotiated Add-On

The Signatories agree that, for the purpose of this stipulation, the negotiated add-on of this

segment of service equals \$0.00825 per minute.

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g. 800 ValuFlex

1. Relevant form of access

For this service, the Signatories agree that the relevant form of originating access is 100% switched and the relevant form of terminating access is 100% switched.

2. Negotiated Add-On

The Signatories agree that, for the purpose of this stipulation, the negotiated add-on of this service equals \$0.015 per minute.

5. NET toll rules for Multi-year Competitive Responses:

a. The NET Toll Rules otherwise provided in this Attachment shall apply except under the following circumstances:

1. Where it is demonstrated by NET that a Toll Provider has offered a multi-year service contract to a specific customer for toll services which are priced at or above the average access rate for the relevant form of access for that customer, for the term of the proposed contract, but below the current rate for the relevant form of access for that customer, NET may, as a competitive response to that specific multi-year offer, offer its toll services for the same term period as the offer to which NET is responding, at a rate not lower than the average of the relevant price floors, as provided in Section 4 of this Attachment, in effect during the term of the contract. For the purpose of this section, the average of the price floors shall be computed by taking the access floors provided herein, for each specific year of the contract averaged over the term of the contract offered by the competitive toll service provider.

b. NET must demonstrate to the Commission that a Toll Provider has offered a multi-year service contract to a specific customer for services priced at or above the average rate of the relevant form of access for that customer for the term of the contract, but below the current rate for the relevant form of access for that customer.

c. When conditions identified above result in NET entering into a contract with a customer for a toll rate which utilizes an averaged price floor, as described above, NET shall, within 10 days of execution of such a contract:

1. File a letter with the Commission, in a standardized form to be developed in consultation with Staff, identifying:

- a. the customer with whom NET is contracting;
- b. the rate per minute offered by said contract;
- c. the competitor whose offer to this customer triggered the competitive response, unless the customer requests otherwise;
- d. the rate per minute and term of contract offered by the competitor identified in c) above, unless the customer requests otherwise; and
- e. the term of the contract;

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f. reference to a worksheet which will be attached; demonstrating that the contract rate is not

lower than the average of the relevant price floors in effect during the term of the contract;
 2. Send, no later than the date the letter is filed with the Commission, a copy of the letter to the competitor identified therein, or, if the customer requests that the competitor not be identified, to all certified non-LEC Toll Providers identified on an updated list provided quarterly to NET by Staff;

d. Upon the Commission's assignment of a docket number, the Staff will enter the docket information into the Commission's electronic bulletin board.

e. Any objection by a competitor or the OCA must be filed with the Commission within 15 days of NET's filing.

f. The Commission shall delegate authority to its Staff to approve toll contracts which comply with the conditions identified above. Staff shall issue such approval within 30 days of NET's filing if the offered rate is at or above the average of the price floors for the years covered by the term of the contract, and the conditions identified in Schedule A, paragraph A. 5. a. of this Attachment, have been satisfied. If Staff rejects NET's filing, NET shall be entitled to an expeditious hearing before the Commission, if requested.

6. Miscellaneous

a. Agreement of the Signatories on this issue does not constitute agreement of the Signatories on any particular costing methodology. The Signatories expressly reserve their rights to argue for different costing methodologies in the Unbundling Workshop established pursuant to Section X of this Stipulation and Agreement. Signatories also reserve their rights as to the appropriate pricing rules for bundled service offerings resulting from the unbundling workshop established pursuant to Section X of this Stipulation and Agreement.

b. The Signatories reserve their right to petition the Commission on or after July 1, 1995, as to changes in the composition and weighting of the relevant forms of access used in calculating the price floors.

7. Chart of Price Floors

For illustrative purposes, the Signatories agree that the following chart represents the appropriate price floors for the NET intraLATA segments of toll services, as defined above. The Signatories agree this chart will be revised and made part of any filing in which NET proposes retail toll rate changes.

Segments of Add-On	Cost of Floor	Cost of Negotiated	Price Services	Orig. Acc.	Term. Acc.
MTS A	\$0.12	\$0.04	\$0.015	\$0.175	MTS B
C	\$0.027	\$0.04	\$0.0075	\$0.0745	MTS D
A	\$0.04	\$0.094	\$0.0143	\$0.1483	800 B
	\$0.04	\$0.04	\$0.015	\$0.095	800 ValuFlex

8. Filing requirements for toll price revision.

Each time NET proposes to change any rate for any of the above-defined intraLATA toll products, NET is required

to include in its filing a calculation of the average retail revenue per minute, as defined above, for each service so affected. NET will demonstrate that the average retail revenue per minute is not less than the relevant price floor for that service, as defined above. NET is required to serve a copy of each proposed rate change on each Toll Provider who is a Signatory to this Stipulation and Agreement.

The Commission will review the proposed revision and approve or disapprove the proposed filing within 10 days.

B. Revisions in the Terms and Conditions (other than rates) of Existing Services and the Introduction of New Services.

1. NET may, from time to time, revise terms and conditions (other than rates) of existing services or introduce new intraLATA toll services, including new optional toll calling plans. The general pricing rules established for NET's existing services will apply. Specifically, with each such filing, NET will be required to demonstrate that the average retail revenue per minute for each such service is at or above the relevant price floor for such product. NET will serve a copy of each such filing on each Toll Provider who is a Signatory to this docket.

For the purpose of this section of the pricing rules, the average retail revenue per minute will be calculated based on NET's projection of demand for such service and NET's proposed rate for such service in accordance with the prior formula.

2. The price floor for any such service will be set according to the principles established in Section A. The price floor will equal the cost or costs of the relevant form or forms of access that other Toll Providers purchase in order to provide a competing service, plus the appropriate add-on corresponding to the relevant form of access. For the purposes of this section, the relevant form of access will be the lowest cost form of access that competitors could purchase to service customers with the respective volumes of use to which the service is targeted, recognizing that a proxy, derived from combinations of different types of access (as has been done with Segments MTS B, MTS C, 800 A and 800 B), may be necessary to take into account that the lowest cost form of access will vary with such factors as the volume of intrastate traffic, the volume of interstate traffic, customer premise equipment, and the customers' proximity to IXC points of presence. In addition, it may be appropriate to segment such service in order to establish the relevant form of access used by the competitor in setting the price floor. The Signatories reserve their rights to argue if and when such segmentation is appropriate.

3. The Commission will review the filing for conformance with the filing requirements and issue an order *nisi* within 30 days. The Commission shall approve the filing (conditionally or otherwise) if the Commission determines that NET's filing falls within a zone of reasonableness and reject the filing if it determines the filing does not. The Commission may further condition its approval of any such filing on the requirement that the filing should be approved subject to the requirement that NET provide quarterly reviews to the Commission Staff of the filing's effect on the segment's ARPM using the

latest available actual data. If the reviews demonstrate that the realized ARPM plus the negotiated add-on for the segment is less than the relevant minimum ARPM floor for the segment, then NET shall be required to withdraw the rate revision or submit modifications to bring the segment into conformance with these pricing rules. If the results of the review for two consecutive quarters establish compliance with the pricing rules above, no further Commission review will be necessary.

Attachment 4

SCHEDULE B - DESCRIPTION OF COMPUTATION OF INTRASTATE SPECIAL ACCESS COSTS

For the purpose of this stipulation, the cost of intrastate special access has been established according to the following procedure.

A. For any particular service or segment of service, as discussed herein, a mid-point volume of the relevant range of intrastate usage is determined.

B. Combined intrastate and interstate volume of use is determined by multiplying the intrastate usage determined in (A) by 2.5, reflecting that approximately 60% of toll traffic originating or terminating in New Hampshire is interstate traffic.

C. Using the combined usage determined above, the optimal number of lines for a customer with such usage is determined using standard Erlang-B tables.²⁽⁴²⁾

D. Based on the number of lines determined in (C), the optimal form of special access is determined.

E. The cost of the special access is determined from NET's tariffed rates. In the case of DSOs, the Signatories agree that 50% of such DSO's are multiplexed with a 70% fill rate, or 17 DSOs, and 50% are not.

F. The cost of any overflow is determined based on the assumption that 60% of such overflow is priced at the interstate originating rate and 40% of such overflow is priced at the intrastate originating or terminating rate depending on whether the service is outbound or inbound respectively.

G. The total cost of originating or terminating special access is determined by adding (E) and (F) depending on whether the service is outbound or inbound respectively.

H. NET is permitted an off-set for the retail revenue, based on the average retail rate, associated with the number of business lines that would be used were NET to provide service to that customer. The number of such business lines will be equal to the optimal number of lines determined in (C) above. Such number is multiplied by NET average business line rate and the resultant product is subtracted from the result reached in (G).

I. The net result obtained from the calculation in (H) is divided by the total number of minutes as determined in (B). If the quantity determined in (B) is not represented exactly in the Erlang B table, the number from the Erlang B table closest to the quantity determined in (B) shall be used.

J. The result obtained in (I) is the amount to be used as the cost for originating special access.

FOOTNOTES

¹In NET's view, the term "negotiated add-on" represents the differential between toll and access; in the IXC's view, the term represents the cost of the non-access functions which NET uses to provide its toll service.

²*Long Distance for Less*, Robert Self, (Market Dynamics), Chapter 15 pages 20-31.

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LOCAL RATE PROTECTION MECHANISM (LRPM) REPORT Section A - COST
COMPANIES Schedule 1 of 3 Company Name: LRPM RATE BASE For Year Ended December
31, 19XX

PARTPART PUCTCC6436TSC LnReport-----
NoPLANTReferences(1)-(2)-(3)=(4) -----

(1)Gross Plant2001,2,50000

(2)Less: Depreciation Reserve3100-20000 -----

(3)Net Plant in Service0000

Working Capital -----

Plus:

(4) Material & Supplies12200000

(5) Prepayments12800000

(6) RTB Stock0000

(7) Cash Working Capital *0000

Less:

(8) Deferred Taxes43400000

(9) Investment Tax Credits (Pre '71)43200000

(10) Customer Deposits40400000

(11) Customer Advances for Const.40300000 -----

(12)LRPM RATE BASE0000

(13)ACCESS LINES (a)01/01/920 (b)12/31/920 -----

(14)Average Access Lines ((a+b)/2)0

* Cash Working Capital: (a) Operating ExpensesB11-Ln200 (b) Less: Depreciation &
AmortizationI-35-Ln30-3500 ----- (c) Subtotal00 (d) Divide by 8 (45 day methodology)88
----- (e) Total Cash Working Capital (Go to Ln 7)00

Col (1)—Total Company Cost of Regulated Activities (TCC) Col (4)—Total Company Cost of Regulated INTRASTATE Activities (TSC)

[TABLE TO BE SHOT] [TABLE P]

LOCAL RATE PROTECTION MECHANISM (LRPM) REPORT Section A - COST COMPANIES Schedule 2 of 3 Company Name:LRPM Cost per Line For Year Ended December 31, 19XX

PARTPART PUCTCC6436TSC LnReport-----
NoPLANTReferences(1)-(2)-(3)=(4) -----

- (1)LRPM Rate BaseSch1-Ln120000
- (2)Authorized Cost of Capital00
-
- (3)Return on LRPM Rate Base (Ln 1 x L n2)00
- (4)Total Operating Expenses + TaxesB-11*00 *(Ln 2+Ln 9)
- (5)Fixed ChargesB-11*00 *(Ln 23) -----
- (6)Return Subject to Income Taxes (Ln 3-Ln 5)00
- (7)Federal Income Taxes (Ln 6 * (rate/1-rate))00
- (8)Return Subject to SIT (Ln 6 + Ln 7)00
- (9)State Income Taxes (Ln 8 * (rate/1-rate))00 -----
- (10)Total LRPM Company Cost of Regulated Activities00 (Ln 3 + Ln 4 + Ln 7 + Ln 9)
- (11)Total LRPM Cost per access line/per month00 ((Ln 10 / Sch 1, Ln 14) / 12))
- (12)Less: (SAR) State Access Revenues a/c 508X00 (per access line/per month)
- (13)Less: (STR) State Toll Revenues a/c 51XX00 (per access line/per month)
- (14)Less: RPAL (a) or (b) as applicable: (a) ITC: using NET rates (RxR%) +(BxB%)0 0
- (b) NET: using NET average rates ((RRxR%) + (BRxB%)) x 1.75)-----
- (15)Total LRPM00

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[TABLE TO BE SHOT] [TABLE Q]

LOCAL RATE PROTECTION MECHANISM (LRPM) REPORT Section A - COST COMPANIES Schedule 3 of 3 Company Name:GD-PPI Threshold For Year Ended December 31, 19XX

LnYear EndedTCC No-----

- (1) Total LRPM Cost per access line Current Yr 0.00 (Sch 2-Ln 11-Col 1 TCC)
 (2) Total LRPM Cost per access line (Prior Year Sch 3-Ln 1) Prior Yr 0.00 -----
 (3) Change 0.00 (Ln 1 - Ln 2)
 (4) TCC Percent Change 0.00% (Ln 3 / 2)
 (5) Gross Domestic-Product Price Index Current Yr 0.00 (GDP-PI; Commerce Department)
 (6) Gross Domestic-Product Price Index Prior Yr 0.00 (GDP-PI; Commerce Department) -----
 (7) Change 0.00 (Ln 5 - Ln 6)
 (8) GDP-PI Percent Change 0.00% (Ln 7 / Ln 6)
 (9) GDP-PI Threshold 0.00% (Ln 8 * 60%)
 (10) Commission Review (If Ln 4 > Ln 9)

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[TABLE TO BE SHOT] [TABLE R]

LOCAL RATE PROTECTION MECHANISM (LRPM) REPORT Section B - AVERAGE
 SCHEDULE COMPANIES Schedule 1 of 3 Company Name: LRPM RATE BASE For Year
 Ended December 31, 19XX

PU TCC Ln Report ----- No PLANT References (1) -----

- (1) Gross Plant 2001,2,50
 (2) Less: Depreciation Reserve 3100-20 -----
 (3) Net Plant in Service 0
 Working Capital -----
 Plus:
 (4) Material & Supplies 12200
 (5) Prepayments 12800
 (6) RTB Stock 0
 (7) Cash Working Capital * 0
 Less:
 (8) Deferred Taxes 43400
 (9) Investment Tax Credits (Pre '71) 43200
 (10) Customer Deposits 40400
 (11) Customer Advances for Const. 40300 -----
 (12) LRPM RATE BASE 0
 (13) ACCESS LINES (a) 01/01/9X 0 (b) 12/31/9X -----

(14)Average Access Lines $((a+b)/2)$ 0

* Cash Working Capital: (a)Operating ExpensesB11-Ln20 (b)Less: Depreciation & AmortizationI-35-Ln30-350 ----- (c)Subtotal0 (d)Divide by 8 (45 day methodology)0 ----- (e)Total Cash Working Capital (Go to Ln 7)0

Col (1)—Total Company Cost of Regulated Activities (TCC)

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[TABLE TO BE SHOT] [TABLE S]

LOCAL RATE PROTECTION MECHANISM (LRPM) REPORT Section B - AVERAGE SCHEDULE COMPANIES Schedule 2 of 3 Company Name:LRPM Cost per Line For Year Ended December 31, 19XX

PUCTCC LnReport----- NoPLANTReferences(1) -----

(1)LRPM Rate BaseSch1-Ln120

(2)Authorized Cost of Capital0 -----

(3)Return on LRPM Rate Base (Ln 1 x L n2)0

(4)Total Operating Expenses + TaxesB-11 *0 *(Ln 2+Ln 9)

(5)Fixed ChargesB-11 *0 *(Ln 23)-----

(6)Return Subject to Income Taxes (Ln 3-Ln 5)0

(7)Federal Income Taxes (Ln 6 * (rate/1-rate))0

(8)Return Subject to SIT (Ln 6 + Ln 7)0

(9)State Income Taxes (Ln 8 * (rate/1-rate))0 -----

(10)Total LRPM Company Cost of Regulated Activities0 (Ln 3 + Ln 4 + Ln 7 + Ln 9)

(11)Total LRPM Cost per access line/per month0 ((Ln 10 / Sch 1, Ln 14) / 12))

(12)Less: Interstate Revenues0 (per access line/per month)

(13)Less: (SAR) State Access Revenues a/c 508X0 (per access line/per month)

(14)Less: (STR) State Toll Revenues a/c 51XX0 (per access line/per month)

(15)Less: RPAL (a) or (b) as applicable: ITC: using NET rates (RxR%) +(BxB%)0 -----

(16)Total LRPM0

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[TABLE TO BE SHOT] [TABLE T]

LOCAL RATE PROTECTION MECHANISM (LRPM) REPORT Section B - AVERAGE SCHEDULE COMPANIES Schedule 3 of 3 Company Name:GD-PPI Threshold For Year Ended December 31, 19XX

Ln NoYear EndedTCC -----

- (1) Total LRPM Cost per access line Current Yr 0.00 (Sch 2-Ln 11-Col 1 TCC)
 (2) Total LRPM Cost per access line Prior Yr 0.00 (Prior Year Sch 3-Ln 1)-----
 (3) Change 0.00 (Ln 1 - Ln 2)
 (4) TCC Percent Change 0.00% (Ln 3 / 2)
 (5) Gross Domestic-Product Price Index Current Yr 0.00 (GDP-PI; Commerce Department)
 (6) Gross Domestic-Product Price Index Prior Yr 0.00 (GDP-PI; Commerce Department)-----
 (7) Change 0.00 (Ln 5 - Ln 6)
 (8) GDP-PI Percent Change 0.00% (Ln 7 / Ln 6)
 (9) GDP-PI Threshold 0.00% (Ln 8 * 60%)
 (10) Commission Review (If Ln 4 > Ln 9)

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ATTACHMENT 6

PROTECTIVE AGREEMENT

This Agreement is entered into by and between the parties in the above-referenced proceeding before the New Hampshire Public Utilities Commission ("Commission"). In this proceeding, certain parties have requested or will request information and documents (the "Requesting Party") which are or may be considered to be confidential, proprietary, sensitive, privileged or in the nature of a trade secret by the party on whom the information or data request is served (the "Providing Party").^{*(43)} The parties desire to prevent such confidential information from becoming part of the public record in this or any proceeding and from being otherwise publicly disclosed. The parties also desire to facilitate the discovery process while protecting legitimate proprietary concerns. For the above reasons, the parties agree as follows:

1. All documents, data, information, studies and other materials furnished pursuant to any data requests, interrogatories or other requests for information, by subpoena, deposition, or other mode of discovery, that are claimed by the Providing Party to be a trade secret, privileged, proprietary, or of a competitively-sensitive, commercial, financial or confidential nature (hereinafter referred to as "Confidential Information") shall be considered to be furnished pursuant to the terms of this Agreement, and shall be treated as confidential by all persons accorded access thereto. No person accorded access to any Confidential Information by reason of this Agreement shall use such information for any purpose other than the purposes of preparation for and conduct of this proceeding and then solely as contemplated herein. More specifically and without limiting the foregoing, the Confidential Information shall not be used for any competitive or commercial purpose. Every person accorded access to Confidential Information shall use his or her best efforts to keep the Confidential Information secure and shall not disclose it or accord access to it to any other person not authorized by this Agreement to obtain Confidential Information.

2. The documents containing Confidential Information which are made available by the Providing Party subject to this Agreement shall be identified as being confidential, and the

Providing Party shall maintain a current list of all material so designated, which has been made available pursuant to this Agreement.

3. Confidential Information shall be made available by the Providing Party solely to counsel for the party seeking its discovery; provided, however, that access to any specified Confidential Information may be authorized by said counsel, solely for the purposes of this proceeding, to only such other employees or consultants of the Requesting Party with a legitimate need to know the Confidential Information for the purposes of preparation for and conduct of this proceeding, in accordance with the terms of this Agreement.

4. Prior to giving access to any Confidential Information to any other person, including but not limited to co- counsel, counsel for the party obtaining discovery shall deliver a copy of this Agreement to such person and shall obtain a written agreement in the form attached hereto as Attachment A by which said person shall agree to comply with and be bound by this Agreement. Counsel shall cause a copy of such written agreement, together with identification of the Confidential Information to which said person is to be given access, to be delivered to the Providing Party. An individual's access to Confidential Information shall cease upon termination of his or her employment, consulting or professional relationship with the Requesting Party.

5. A Providing Party shall provide one copy of Confidential Information to counsel for a Requesting Party, except for information which is voluminous. Any document containing fewer than 200 pages shall not be considered voluminous. A Requesting Party may review those documents which the Providing Party designates as voluminous, at offices designated by the Providing Party in Concord or Manchester, by prearranged appointment. Such appointment shall, to the extent practicable, be

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arranged at the mutual convenience of the Providing and Requesting Parties.

6. No copies of Confidential Information shall be made, except that a single copy of documents that may be required for the purposes of the Requesting Party's preparation for and conduct of this proceeding may be made, provided that such copy shall remain subject to this Agreement. In addition, documents to be offered in evidence may be copied as necessary for that purpose. Counsel for the party seeking discovery and other properly designated persons who have agreed in writing to be bound by this Agreement may take limited notes regarding such Confidential Information as may be necessary solely for the purposes of this proceeding. Such notes shall be treated in the same manner as the Confidential Information from which the notes were taken and shall not be used for any purposes other than the preparation for and conduct of this proceeding. All copies of Confidential Information shall be returned to the Providing Party after the conclusion of this proceeding, except that Staff may retain one copy of Confidential Information subject Att 6-iv to the protective requirements of this Agreement.

7. If a party obtaining discovery of Confidential Information desires to use or place any Confidential Information in evidence in this proceeding, counsel for such party shall notify the Providing Party in writing of the documents or information to be used at least ten days in advance of such use. The Providing Party will notify such party within a reasonable time, as appropriate, which portion, if any, of the documents or information so identified shall be placed

in a sealed record. Information, documents or any portion not designated to be placed in a sealed record shall be available for use in the public record.

8. If counsel for the party seeking discovery desires to place any Confidential Information in evidence in this proceeding or take any other action which discloses or is likely to disclose any part of the substance of the requested Confidential Information, such evidence shall be taken in an *in camera* hearing, and the Confidential Information, as well as the record relating to the Confidential Information, shall be placed in the Commission files under seal. Said Confidential Information shall be available only to the Commission, the Hearing Officer, and any person which has agreed to this Protective Agreement. If necessary for a determination in the proceeding, a non-confidential summary of the material shall be prepared and placed on the public record.

9. This Agreement shall in no way constitute any waiver of the rights of any party at any time to contest any assertion or to appeal any finding that specific information is or is not Confidential Information or that it should or should not be subject to the protective requirements of this Agreement. Parties shall retain the right to question, challenge and object to the admissibility of any and all Confidential Information furnished under this Agreement on any available grounds, including but not limited to competency, relevancy and materiality. In the event that the Commission or its Hearing Officer should rule that any information is not appropriate for inclusion in a sealed record, no party will disclose said Confidential Information or use said Confidential Information in the public record for three business days, to enable the Providing Party to seek a stay or other relief.

10. Confidential Information provided subject to the terms of this Agreement shall not be placed on the public record of this or any other proceeding pending the expeditious appeal by the Providing Party to the Commission and to the courts for an order protecting such information.

11. To the extent that reference is to be made to any Confidential Information by counsel or other persons accorded access during any aspect of this proceeding (for example, but not by way of limitation, in testimony, cross-examination, colloquy of counsel, motions, briefs or arguments), any reference that will not be placed in a sealed portion of the record shall be solely by title of document and shall not disclose the confidential Information.

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12. In the event the case is for any reason dismissed, any party obtaining discovery of Confidential Information shall continue to treat all information supplied under this Agreement as confidential and shall promptly return such information in accordance with the terms of paragraph 13, next.

13. Upon completion of this proceeding, including administrative or judicial review thereof, all Confidential Information furnished and protected under the terms of this Agreement shall be returned to the Providing Party, except that Staff may retain one copy of confidential Information subject to the protective requirements of this Agreement. Any notes taken with regard to such information shall be destroyed and all parties having such notes shall advise the Providing Party in writing when this has been done. Confidential Information made part of the record in this proceeding, if any, shall continue to be subject to the protective requirements of this Agreement.

14. Each party will act in good faith and will not do anything to deprive the other party of the benefit of this Agreement. The parties hereto agree to recommend to the Commission that it adopt the provisions set forth herein for the purpose of conducting this proceeding.

FOOTNOTES

* For the purposes of receiving discovery responses setting forth information and documents subject to this Agreement, each party which signs the Agreement will be considered a "Requesting Party" and will be served the protected information and documents in accordance with this Agreement, regardless of whether the party served the particular request to which the response is provided.

Respectfully submitted,

STAFF OF THE PUBLIC UTILITIES COMMISSION DATED

OFFICE OF THE CONSUMER ADVOCATE DATED

NEW ENGLAND TELEPHONE DATED AND TELEGRAPH
COMPANY

AT & T COMMUNICATIONS OF NEW ENGLAND, INC. DATED

DUNBARTON TELEPHONE COMPANY, INC. DATED MERRIMACK
COUNTY TELEPHONE COMPANY GRANITE STATE TELEPHONE, INC. WILTON
TELEPHONE COMPANY, INC.

LONG DISTANCE NORTH OF NEW HAMPSHIRE, INC. DATED

MCI TELECOMMUNICATIONS CORPORATION DATED

US SPRINT COMMUNICATIONS COMPANY DATED

UNION TELEPHONE COMPANY DATED

ATTACHMENT A

GENERIC COMPETITION DOCKET DOCKET NO. 90-002

The undersigned is and serves as an employee of or consultant to the Requesting Party in the above proceeding before the New Hampshire Public Utilities Commission. In connection with the work done for the Requesting Party, I am to be given access to certain confidential material of the Providing Party provided under protective agreement. A copy of the Protective Agreement executed on 1992 by the Requesting Party and the Providing Party has been delivered to me. I have read that Agreement, and I agree to comply with and be bound by its terms.

Dated: February 28, 1992

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ATTACHMENT 7

July 7, 1993

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission Eight Old Suncook Road Concord, NH 03301

Re: Generic Competition Docket, No. 90-002

Dear Mr. Arnold:

This is in response to the Commission's Report and Order No. 20,864 dated June 10, 1993, approving in part and rejecting in part the Stipulation filed on March 16, 1993 in the above-referenced matter. Subject to the provisions of this letter, which are limited to NET's reservation of certain rights to request Commission review in the future, New England Telephone and Telegraph Company (NET or the Company) accepts the modifications set forth in Report and Order No. 20,864. As explained below, NET's reservation of rights does not alter the modifications set forth in Report and Order No. 20,864.

First, as the Commission is aware, the Company does not agree with the analysis in DR 89-010, set forth on pages 5-8 of its Report and Order, that non-traffic sensitive (NTS) loop costs should appropriately be allocated to toll services, particularly in the manner prescribed in DR 89-010. Nor does NET agree that the record in that docket supports the proposition that the incremental cost of NTS loop provisioning approximates its average (or total) costs.

By motion dated March 11, 1991 in that docket, NET sought clarification or, in the alternative, rehearing of that aspect of Order No. 20,082, among others. In response, by Order No. 20,110 dated April 11, 1991 the Commission clarified that the Company may in future proceedings file testimony "to demonstrate that the incremental cost of basic exchange does not cover the average cost of the service and [if] the Commission finds this testimony to be credible, NET will be given the opportunity to change the rates for the service accordingly." *Re NET*, 76 NHPUC 294, 295 (1991).

Further, even if the incremental cost analysis discussed above is accurate, application of the Commission's equi-proportional method to basic exchange service, for the purpose of "closing the gap" to the Company's revenue requirement in the future, 76 NHPUC 150, 167 (1991), will necessarily result in all service rates being above incremental cost, including basic rates.

Accordingly, NET reserves its right to establish the appropriateness of basic exchange increases in the future in accordance with the terms of the March 16, 1993 Stipulation, Report and Order Nos. 20,110 and 20,082, and applicable law.

Second, as the Commission is also aware, in accelerating the pace and level of access-charge reductions proposed in the Stipulation, the Commission altered the balance of negotiated positions reflected in the Stipulation. In the June 10 Report and Order, the Commission recognized that "given the uncertainties of competition, the uncertainties of national and State economic conditions, the uncertainties of stimulation and other forms of market growth, and other similar considerations, it is simply impossible to predict the impact of competition on NET's revenues." Report and Order at 10. The Commission further observed that the Stipulation presents a framework for intrastate toll competition to evolve in New Hampshire through a two-year trial period and, if appropriate, into the future. *Id.* at 1. "At the end of the trial period, all parties may comment on any relevant competitive issue," *Id.* at 32, and each is entitled, if it so requests, to a hearing before the Commission as to issues raised in the docket Stipulation at 6.

Given the degree of uncertainty acknowledged by the Commission as to the impact on NET's revenues, the Company's acceptance of

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the accelerated access-charge reductions must be subject to the rights of the parties, including NET, to file comments and be entitled to a hearing, if necessary, as to whether the Commission's current determination of the relevant NET access schedule will continue to be appropriate based on information and experience derived from the two-year "experimental period." Report and Order at 1.

In reserving its right to request review of the continued appropriateness of the modified access schedule, NET is not requesting that the Commission commit to a suspension or alteration of the four-year, access-charge schedule, should NET file comments seeking such relief, but only that the Company be expressly permitted to reserve its right to petition for a different schedule of rates, and be afforded a hearing, if the Company determines that circumstances so warrant in the future.

Very truly yours,

Victor D. Del Vecchio cc: All Parties

1192R

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NH.PUC*08/02/93*[75155]*78 NH PUC 413*Concord Electric Company

[Go to End of 75155]

Re Concord Electric Company

Additional respondent: Exeter & Hampton Electric Company

DE 92-081

Order No. 20,917

78 NH PUC 413

New Hampshire Public Utilities Commission

August 2, 1993

1992 Least Cost Integrated Resource Plan - Report & Order Approving Least Cost Plan.

Appearances: LeBoeuf, Lamb, Leiby & McRae by Scott J. Mueller, Esq. on behalf of Concord Electric Company and Exeter & Hampton Electric Company; Susan Chamberlin, Esq. on behalf of the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On April 30, 1992, Concord Electric Company and Exeter & Hampton Electric Company (jointly the UNITIL System of Companies, UNITIL, or the Company) filed with the New Hampshire Public Utilities Commission (Commission) their Least Cost Integrated Resource Plan (LCIP) for the 15 year period 1992 to 2006. On June 10, 1992 the Commission issued an Order of Notice setting a prehearing conference for June 30, 1992. At the duly noticed prehearing conference, the Commission staff (staff) and the Company submitted a procedural schedule which was accepted by Commission Order No. 20,531.

Staff explored the issues in the case through several sets of data requests and a number of technical sessions before filing testimony on January 6, 1993. On February 16, 1993, the Company filed the supplemental direct testimony of George R. Gantz and Paul Weiss. Subsequent to the filing of the Gantz and Weiss testimony, staff and the Company attended several settlement conferences at which agreement was reached on all but two issues. On March 30, 1993 the Commission held a hearing at which testimony was presented on the following unresolved issues: (a)

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evaluation of the conventional "utility-build" option; and (b) the appropriate balance of short- and long-term power supply contracts in UNITIL's resource portfolio. As a result of further discussions, staff and the Company were able to overcome their differences on the short/long-term resource issue, leaving only the utility-build option unresolved.

On April 13, 1993 the Company submitted to the Commission an agreement on how the 1994 LCIP would address staff's concerns relating to UNITIL's assessment of the conventional utility-build option and how that option might fit into a least cost resource strategy.

II. *POSITIONS OF STAFF AND THE PARTIES*A. *UNITIL System of Companies*

UNITIL's 1992 LCIP filing is composed of four sections. The first section, "The Plan", provides an overview of UNITIL's planning process and the details of its short term action plan. The second section, entitled "Requirements Assessment", presents UNITIL's forecasting report. Section three presents reports on demand-side assessment, supply-side assessment, integration of demand and supply options, and the avoided cost projections. Finally, the fourth section "Reliability Assessment", presents the report on transmission assessment. The 1992 LCIP is supplemented by direct testimony which highlights certain items in the Company's April 30, 1992 filing, addresses concerns raised by staff's testimony, and provides further explanation of the UNITIL System Resource Planning Guidelines.

The forecasting report presents 15 year forecasts for energy and capacity through the year 2006. The energy or sales forecast, which is estimated by service territory and class of customer, predicts energy requirements increasing at an average annual compound rate of 1.7% during the forecast period. UNITIL's winter peak demand is also forecast to increase at an annual rate of

1.7%.

The demand-side assessment report proposes implementation of six core demand-side management (DSM) programs. These programs are expected to provide total lifetime energy savings of approximately 136,000 MWH, and up to 2.8 MW of peak load reduction. Combined with the two programs that are currently available, the total winter peak reduction from existing and planned DSM resources is estimated at 3.9 MW.

The supply-side assessment report describes UNITIL's existing and planned generation, its RFP process and its plan for meeting future resource requirements. Supply resources for the UNITIL System of Companies is provided by UNITIL Power Corporation (UPC). All of UPC's existing generation is supplied through purchased power contracts with utilities and PURPA Qualified Facilities. Potential resources on both the demand- and supply-side are assessed within the context of the Company's Resource Planning Guidelines.

The transmission assessment report reviews reliability considerations of the bulk power system on which UNITIL relies to provide service to customers. This includes the reliability of the resource portfolio, the NEPOOL transmission system, and the NU-PSNH transmission system.

The integration of demand and supply options report reviews the resource modeling process, and describes the SAFEPLAN computer model used to integrate demand and supply resources. A description of the forecast assumptions implicit in the modeling process are also provided in this report.

The short term action plan sets forth a schedule for the areas of the plan to be implemented in the two years prior to the Company's 1994 LCIP filing. This two year action plan brings together the steps identified in the 1992 LCIP.

The avoided cost report presents the avoided energy and capacity costs for 1992 through 2006. The avoided energy costs for the period 1992 through 1998 are calculated using a production cost simulation based upon a 5 MW increment/decrement to UNITIL loads. Avoided energy costs after 1998 are

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based upon the energy related portion of a combined cycle unit installed in that year. The avoided capacity costs for the period 1992 through 1998 are based upon short-term market capacity costs. Avoided capacity costs for 2000 to 2006 are calculated based on the levelized economic carrying cost of a new combustion turbine unit.

B. Staff

Staff's pre-filed testimony addressed UNITIL's compliance with Commission Order No. 20,094 in DF 89-085 and commented on each of the reports that made up the 1992 LCIP. Staff concluded that the Company complied with the requirement of Order No. 20,094 to revise its resource planning guidelines to include demand-side management as an integral component, and to submit rate design changes that address the lack of cost-reflective rate structures. However, with respect to the issue of planning guidelines, staff believed that more work needed to be done to determine the appropriate mix of short, intermediate and long-term resources. Also, with

respect to rate design, staff recommended that UNITIL undertake studies to determine the cost-effectiveness of time of use (TOU) rate structures for the largest residential and commercial customers and to include the results in its 1994 LCIP.

With regard to the concern in the area of balancing short, intermediate and long term resources, staff states that this requirement was intended to address the concern that UNITIL's power supply planning had been overly reliant on short term resources. Staff specifically stated its concern that the company's planning target of 55% of current Capability Responsibility left the UNITIL System of Companies vulnerable to potential increased power supply cost as the result of a tightening of the regional capacity market after the turn of the century. Staff also states that it does not believe that the build option was given serious consideration in the planning process, and concludes the plan is deficient in that respect.

Staff recommends that UNITIL revise its long term planning target to better reflect the tightening regional capacity market and the accompanying greater risk of increased power supply costs. Staff also recommends that the company incorporate a credible build option addressing all the key issues in its resource evaluation and selection process prior to its 1994 LCIP filing.

Staff agrees with UNITIL that the merger with Fitchburg Gas and Electric (FG&E) offers the potential benefit of reduced power supply costs due in part to integration of the two systems. However, staff expresses concern that UNITIL's filing lacks a substantive discussion of the regulatory problems associated with an integrated system. Specifically, staff's concern is that FG&E must comply with the Massachusetts Department of Public Utilities requirements that environmental externalities be incorporated in the resource election process. Staff believes it is inappropriate for UNITIL to incorporate in its resource selection process more stringent environmental limits than are required by federal and state law.

Notwithstanding the above, Staff states that UNITIL's LCIP filing, as supplemented by data requests and technical sessions, is complete and complies with Commission LCIP requirements. Staff recommends approval of the company's avoided cost projections. However, staff recommends that UNITIL include a sensitivity analysis on the key inputs to the avoided cost projections in the 1994 LCIP. Finally, staff recommends that UNITIL improve its forecasting methods by incorporating end-use methods and by including variables on price of electricity and price of substitute fuels in its forecasting equations.

III. SETTLEMENT

During the hearing, witnesses for the Company testified that agreement had been reached with staff that in the 1994 LCIP the Company will:

address the economics associated with UPC and Fitchburg Gas & Electric single system status within NEPOOL, including a description of the analysis and an explanation of any decisions regarding single system status;

provide additional narrative explanation of UNITIL's long-term integrated resource planning philosophy focusing on the

future uncommitted expansion plan, and explain the purpose and use of the future uncommitted resource selections and how they were determined;

provide narrative explanation of how UNITIL's system modelling and SAFEPLAN were used in evaluating and selecting the resource mix commitments made through the 1993 RFP;

provide additional narrative explanation of the market projections used by UNITIL in the planning process and the information and assumptions included in the SAFEPLAN software, particularly in regard to UNITIL's view of the future value of capacity and energy;

provide a narrative explanation of why UNITIL's balance of short- and long-term resources, as reflected in its Resource Planning Guidelines, is optimal;

refine the forecasting process, incorporating price variables in the forecasting equations and giving consideration to alternate functional forms, such as the log-linear and distributed-lag;

address the use of end-use data and analysis in the load forecasting process, specifically addressing appliance efficiency in the residential sector and use of survey data for the industrial sector;

describe the companies' implementation of the rate design requirements contained in Order 20,704 in DR 91-065 and related follow-up activities; and

provide medium-term DSM budget projections, discuss potential new programs, and describe the companies' monitoring and evaluation plans.

Subsequent to the hearing, staff and the Company were able to resolve the one remaining issue between them, namely UNITIL's evaluation of the conventional utility-build option. In summary, the staff and the Company agreed that in the 1994 LCIP UNITIL will address in greater detail the various cost estimates used for the basis of the build option evaluation. The full agreement in a letter dated April 13, 1993 is provided as Attachment A to this Report & Order.

III. COMMISSION FINDINGS

The Commission has reviewed and evaluated UNITIL's integrated least cost resource plan for the period 1992-2006 as supplemented with pre-filed and oral testimony, Exhs. 1-3, the revised avoided cost projections, Exh. 4, staff testimony, Exh. 5, and the hearing transcript.

A. *Completeness of the Filing*

The Commission finds UNITIL's filing to be complete. UNITIL's 1992 LCIP addresses the seven reporting areas required by the Commission to document its LCIP processes: forecasting, demand-side assessment, supply-side assessment, transmission constraints, integration of demand and supply side options, short term action plan and avoided cost projections. Order no. 19,052 in DR 86-41 *et al.*, *Re Public Service Company of New Hampshire*, 73 NHPUC 117 (1988).

B. *Adequacy of the Planning Process*

1. Forecasting

The Commission notes that in the agreement with staff the Company has agreed to further refine the forecasting process. With UNITIL's commitments in this area, we find UNITIL's forecast report to be adequate and fulfills the requirements of Order No. 19,052 *supra*. We expect UNITIL to continue working to improve its forecasting capabilities and that this will be reflected in future filings.

2. Assessment of Demand-Side Options

The Commission notes the agreement between staff and the Company that future

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LCIP filings will focus more on the future DSM programs (rather than on existing programs) and include budget projections, potential new programs and associated monitoring and evaluation plans. With these additions we find UNITIL's assessment of demand- side options to be adequate and fulfills the requirements of Order No. 19,052 *supra*.

3. Assessment of Supply-Side Options

The Commission also finds UNITIL's process for assessing and developing supply-side options to be comprehensive and to fulfill the requirements of Order No. 19,052 *supra*. The company's agreement to address more fully in 1994 the optimality of its procurement strategy and to provide additional information on the build option will further strengthen the supply-side assessment report.

4. Assessment of Transmission Requirement, Limitations and Constraints

The Commission finds that UNITIL's transmission assessment is comprehensive and fulfills the requirements of Order No. 19,052 *supra*. The Commission concurs with staff that UNITIL and PSNH should resolve the transmission related issues between themselves (Exhibit 5 at 17), and is pleased that agreement on most of these issues is near. (Tr. at 27-28)

5. Integration of Demand- and Supply-Side Resource Options

The Commission finds that UNITIL's process for integrating demand- and supply-side resource options is comprehensive, integrated and adequate to meet the requirements of Order No. 19,052 *supra*.

6. Short Term Action Plan

The Commission finds UNITIL's short term action plan to be feasible and adequate to meet the requirements of Order No. 19,052 *supra*.

7. Avoided Costs

In response to staff's data requests, UNITIL filed revised avoided costs which reflect certain methodological corrections (Exhibit 4). We find that the company's revised avoided costs are acceptable and are calculated in a manner consistent with Order No. 19,052 *supra*.

8. Overall Evaluation

UNITIL's planning processes as detailed in its 1992 LCIP filing is adequate and meets the requirements of Order No. 19,052 *supra*. Finally, the Commission commends UNITIL for

producing a well thought-out planning document that makes liberal use of graphs and charts to better convey what is often highly technical and complex information.

C. Additional Commission Findings

We note that federal legislation affecting LCIP filings was passed during the course of this investigation. After the company's initial filing but during staff's investigation, Congress passed The Energy Policy Act of 1992, (Energy Act). It amends the Public Utility Regulatory Policies Act of 1978 (PURPA) to create, *inter alia*, a more detailed definition of integrated resource planning. The Energy Act defines integrated resource planning as:

s 3 (19) The term 'integrated resource planning' means, in the case of an electric utility, a planning and selection process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliabil-

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ity, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

PURPA Section 111(a) directs state commissions to consider each standard established by subsection (d) and make a determination on whether it is appropriate for states to implement the standard. 16 U.S.C. s 2621(a). We believe this commission already requires regulated utilities in each integrated resource plan or LCIP to evaluate "the full range of alternatives... in order to provide adequate and reliable service to its electric customers at the lowest system cost."

However, because the Energy Act was passed in the middle of UNITIL's LCIP docket when neither staff, the company nor potential intervenors could address its new standards explicitly, and because it is our understanding that the Energy Act provisions amending PURPA do not require state commissions to reopen completed hearings,¹⁽⁴⁴⁾ we will defer making a formal evaluation of UNITIL's compliance with the new standards until UNITIL's next LCIP filing or upon the opening of a generic investigation, if any.

We direct the company to prepare its next LCIP filing with express references to the Energy Act's amendments. The company should state how its planning process meets those requirements or, if the company believes that New Hampshire should not follow a particular federal standard it should provide reasons for its position. If the Commission opens a generic investigation into the Energy Act's LCIP provisions before UNITIL's next LCIP docket, the company may supply the necessary information in that context.

Our order will issue accordingly.

Concurring: August 2, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that Concord Electric/Exeter & Hampton Electric Companies' resource planning process as described in its filing of April 30, 1992 and subsequent responses to data requests and testimony is accepted and approved as fulfilling the requirements of Order No. 19,052 for the biennium beginning 1992; and it is

FURTHER ORDERED, that Concord Electric/Exeter & Hampton Electric Companies' long term avoided cost estimates as stated in the revised avoided cost projections (Exh. 4) are approved; and it is

FURTHER ORDERED, that the company demonstrate in its next Least Cost Integrated Resource Plan filing its compliance with the Energy Act of 1992 or state the reasons why New Hampshire should not follow a particular federal guideline, unless such an investigation is superseded by a generic docket on the Energy Act's integrated resource planning provisions.

By order of the Public Utilities Commission of New Hampshire this second day of August, 1993.

FOOTNOTES

¹ See Howard, Jeffrey H., "Secret Weapon", *Public Utilities Fortnightly*, (January 15, 1993)

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Attachment A

April 13, 1993

VIA FEDERAL EXPRESS

Wynn E. Arnold, Esq. Executive Director and Secretary New Hampshire Public Utilities
Commission 8 Old Suncook Road - Bldg. #1 Concord, NH 03301

Re:Concord Electric Company/Exeter & Hampton Electric Company 1992 IRP - DE 92-081

Dear Mr. Arnold:

At the March 30, 1993 hearing in the above-referenced proceeding, the Commission granted the parties' request to make a submission within two weeks indicating any further agreement among the parties or statements of position. After discussion between the Companies and Staff, the Companies have agreed to the following position:

The UNITIL System of Companies ("UNITIL") believes that it adequately and appropriately addresses the conventional utility- build option in its resource planning process. However, in response to Commission Staff recommendations, UNITIL agrees that it will provide in the 1994 IRP additional information and narrative description on the utility-build option and how UNITIL addresses this option.

The information will include a discussion of UNITIL's review and utilization of industry data on generic utility-build options, specifically the NEPOOL Generation Task Force data, and UNITIL's assessment of that data for purposes of least-cost planning. This assessment will address the extent to which this data reflects issues of siting and permitting, fuel availability/ deliverability, and other project development requirements. If the costs associated with such issues are not reflected in the data, UNITIL will estimate and report these costs in its 1994 IRP.

In addition, UNITIL will provide a summary of the 1993 RFP results and will review the data acquired in the RFP process with respect to new generation project siting and development opportunities, with due regard for the confidentiality of commercially sensitive information. As part of this review, UNITIL will describe the type of information obtained and the level of detail available. (See attached RFP Proposal Response Package.) UNITIL will also offer its conclusions with respect to the economics of new generation opportunities for long-term purchases relative to generic utility- build options.

Based upon the above, and commitments made by the Companies during the hearings, Staff has agreed to unconditionally recommend approval of the Companies' 1992 IRP. A copy of this submission is also being provided on a computer disc. Thank you for your attention to this matter.

Very truly yours,

Scott J. Mueller

cc:Susan Chamberlin, Esq. Mr. George R. McCluskey

SJM/rmc bs3593.1

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NH.PUC*08/02/93*[75156]*78 NH PUC 420*Energy Policy Act of 1992

[Go to End of 75156]

Re Energy Policy Act of 1992

DE 93-071

Order No. 20,918

78 NH PUC 420

New Hampshire Public Utilities Commission

August 2, 1993

Order Requiring Certain Qualifying Facilities to Appear before the Commission to Show Cause Why Their Long Term Rates Should Not Be Rescinded for Failure to Answer Data Requests issued in DE 93-071.

 BY THE COMMISSION:

ORDER

On May 27, 1993, the Commission Staff issued Data Requests to all Qualifying Facilities (QFs) selling energy and/or capacity to New Hampshire electric utilities. The Staff sought information on ownership, project financing, project operations, fuel supply and an analysis of project expenses and revenues over time. Staff Data Requests Set No. 1, *Energy Policy Act*, DE 93-071, (May 27, 1993). The Commission required the facilities to provide the information by June 25, 1993. *Energy Policy Act*, DE 93-071, Order No. 20,880 (June 22, 1993).

WHEREAS, Bristol Energy Corporation, *et al.* sought relief from the Commission's data requests from the United States Federal District Court. *See Bristol Energy Corporation, et al. v. State of New Hampshire, Public Utilities Commission, Civil No. 93-322-SD.*; and

WHEREAS, The Federal District Court dismissed the petition on July 20, 1993, *Id.*; and

WHEREAS, QFs are utilities subject to regulation and review by the State, except to the extent that regulation is limited by state or federal law; and

WHEREAS, federal preemption of state regulatory authority is partial and does not include an exemption from providing the information requested by Commission Staff; and

WHEREAS, the instant information is required by the Commission as necessary data in its investigations of the reliability of New Hampshire's energy sources and to its statutory obligations under the Energy Policy Act of 1992; it is therefore

ORDERED, that the above-cited QF's shall supply to the Commission by August 6, 1993 the information requested in the May 27, 1993 Data Requests; and it is

FURTHER ORDERED, that any of the above-cited QFs which do not supply responses to the Data Requests by August 6, 1993 shall appear at the Commission at 10:00 A.M. on August 10, 1993 to show cause why their long term rate orders should not be rescinded or their long term contracts reviewed and denied for failure to comply with above-cited Commission orders or some other appropriate action taken by the Commission.

By order of the New Hampshire Public Utilities Commission this second day of August, 1993.

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NH.PUC*08/03/93*[75157]*78 NH PUC 420*Concord Steam Corporation

[Go to End of 75157]

Re Concord Steam Corporation

DR 92-130
 Order No. 20,919

78 NH PUC 420

New Hampshire Public Utilities Commission

August 3, 1993

Order Approving Rate Case Expenses.

BY THE COMMISSION:

ORDER

WHEREAS, Concord Steam Corporation, ("Concord Steam" or the "Company"), having received approval for a rate increase on March 25th, 1993, in Commission Order No. 20,797; and

WHEREAS, Concord Steam, through its legal firm, submitted rate case expenses amounting to \$50,903.50 in April of 1993. That total was corrected to \$51,356 as a result of Staff analysis of the bills submitted. Those expenses being primarily made up of legal and accounting services; and

WHEREAS, said analysis found that a portion of both the legal as well as the accounting expenses were associated with the audit undertaken by the PUC Finance Department. Those expenses amounting to a total of \$3,677.18; and

WHEREAS, the Commission having agreed with Staff's recommendation that expenses associated with the PUC audit of the Company, are not and should not be included as rate case expenses but rather as ongoing

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Operation & Maintenance Expenses; it is hereby

ORDERED, that Concord Steam Corporation be allowed to recoup rate case expenses totaling \$47,678.82; and it is

FURTHER ORDERED, that the above mentioned recoupment of rate case expenses be amortized over a period of two years; and it is

FURTHER ORDERED, that Concord Steam Corporation file a compliance tariff within thirty days of the date of this order; and it is

FURTHER ORDERED, that Concord Steam Corporation will file with the Commission an accounting of the rate case expenses at the end of each year.

By order of the Public Utilities Commission of New Hampshire this third day of August, 1993.

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NH.PUC*08/04/93*[75158]*78 NH PUC 421*Town of Derry

[Go to End of 75158]

Re Town of Derry

Additional respondent: Southern New Hampshire Water Company

DR 93-123
Order No. 20,920
78 NH PUC 421

New Hampshire Public Utilities Commission

August 4, 1993

Wholesale Water Contract/Tariff Rate.

BY THE COMMISSION:

ORDER

WHEREAS, on June 9, 1993 the Town of Derry (Derry) submitted a revised tariff page governing the provision of Derry's wholesale water service to its customer Southern N.H. Water Co. (Southern); and

WHEREAS, the Town of Derry is proposing an increase in its wholesale consumption rate to \$0.694 per hundred cubic feet in accordance with a contract governing this wholesale water service approved by Commission Order 17,071 on June 14, 1984 in Docket DR 84-005; and

WHEREAS, Derry's sole wholesale customer Southern N.H. Water concurs with the methodology governing the changes to the consumption charge and the fixed charges; and

WHEREAS, the changes are consistent with the terms of the wholesale water contract approved by the Commission in Order No. 17,701; and

WHEREAS, it appears the amount of the increase is consistent with the terms on the agreement between the Town of Derry and Southern and is in the public good; it is hereby

ORDERED, that the Town of Derry's proposed changes specified in its 5th revised page 7 be approved and that Derry submit a revised tariff page for effect the date of this order and annotated with the above Commission Order No.

By order of the New Hampshire Public Utilities Commission this fourth day of August, 1993.

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NH.PUC*08/04/93*[75159]*78 NH PUC 421*Granite State Telephone, Inc.

[Go to End of 75159]

Re Granite State Telephone, Inc.

DR 93-130
Order No. 20,921
78 NH PUC 421

New Hampshire Public Utilities Commission

August 4, 1993

Order Approving Tariff Revisions for Custom Calling Service.

BY THE COMMISSION:

ORDER

On July 7, 1993 Granite State Telephone, Inc. (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to revise its existing tariff for Custom Calling Services for effect August 7, 1993; and

WHEREAS, the proposed revisions expand the Call Forwarding feature and introduce two new Custom Calling features, MultiRing and Warm Line; and

WHEREAS, the Company proposed no changes to the rates charged for the Call Forwarding rates; and

WHEREAS, the Company has provided cost support demonstrating that the proposed rates for the new services exceed their incremental cost; and

WHEREAS, upon review of the petition and the staff recommendation, the Commission finds the proposed revisions to be in the public good; it is therefore

ORDERED, that the proposed revisions to NHPUC No. 6

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Section 3

First Revised Sheet 9N

Fifth Revised Sheet 9O

are approved.

By order of the New Hampshire Public Utilities Commission this fourth day of August, 1993.

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NH.PUC*08/04/93*[75160]*78 NH PUC 422*Lakes Region Water Company, Inc.

[Go to End of 75160]

Re Lakes Region Water Company, Inc.

DR 93-067
Order No. 20,922
78 NH PUC 422

New Hampshire Public Utilities Commission

August 4, 1993

Report and Order Addressing Intervention and Procedural Schedule.

Appearances: Ransmeier and Spellman by Dom S. D'Ambruoso, Esquire on behalf of Lakes Region Water Company, Inc.; Robert M. Sullivan on behalf of the Waterville Valley Gateway Townhome Association; and E. Barclay Jackson, Esq. on behalf of the New Hampshire Public Utilities Commission Staff.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On March 23, 1993, Lakes Region Water Company, Inc. (Lakes Region or the Company) filed a notice of intent to file rate schedules requesting an overall rate increase. Subsequently, the Company filed its petition and supporting exhibits and testimony to support its requested rate increase. This filing was rejected by the Commission for failure to comply with N.H. Admin. R., chapter 1600. In response to this action the Company resubmitted its petition and supporting testimony and exhibits in compliance with Puc 1600.

On June 23, 1993, the Commission Issued Order No. 20,881 scheduling a prehearing conference for July 15, 1993, to establish a procedural schedule to govern the Commission's examination of the Company's petition and to address any motions to intervene in the proceedings.

On July 9, 1993, the Commission received a petition from the Waterville Valley Gateway Townhome Association (Association) requesting full intervenor status in the proceeding.

III. *POSITIONS OF THE PARTIES AND STAFF*

Neither the Company nor Staff objected to the Association's request for full intervenor status, and after an explanation from the Hearings Examiner of the distinction between full and limited intervenor status and the responsibilities entailed in full intervenor status the Association continued to request full intervenor status. The request was granted for the purposes of the prehearing conference subject to review by the Commission in this Report and Order.

The Parties and Staff recommended the following schedule to govern the investigation into the requested rate increase:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

July 30, 1993

Company & Staff Temporary
Rate Testimony

August 17, 1993	Temporary Rate Hearing
August 27, 1993	Staff & Intervenor Data Requests (Set #1)
September 10, 1993	Company Data Responses
September 24, 1993	Staff & Intervenor Data Requests (Set #2)
October 8, 1993	Company Data Responses
November 5, 1993	Staff & Intervenor Testimony
November 10, 1993	Technical Settlement Conference
November 12, 1993	Company Data Requests
November 24, 1993	Staff & Intervenor Data Responses
December 6, 1993	Settlement Conference
December 21 & 22, 1993	Hearings on the Merits

IV. COMMISSION ANALYSIS

We ratify the decision of the Hearings Officer to allow the Association full intervenor status.

We further accept the stipulated schedule set forth above to govern this proceeding.

Our order will issue accordingly.

Concurring: August 4, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby ORDERED, that the Waterville Valley Gateway Townhome Association is granted full intervenor status; and it is

FURTHER ORDERED, that the schedule set forth in the preceding report is adopted to govern this proceeding.

By order of the New Hampshire Public Utilities Commission this fourth day of August, 1993.

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NH.PUC*08/04/93*[75161]*78 NH PUC 423*Concord Electric Company

[Go to End of 75161]

Re Concord Electric Company

DE 93-118
Order No. 20,923

78 NH PUC 423

New Hampshire Public Utilities Commission

August 4, 1993

Order *Nisi* Granting Authorization for Six Crossings of The Concord Electric Company Over Public Waters of the Merrimack, Soucook, and Suncook Rivers in the City of Concord and the Towns of Boscawen, Canterbury, Chichester, and Pembroke, New Hampshire.

BY THE COMMISSION:

ORDER

On June 10, 1993 Concord Electric Company (Petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition under RSA 371:17 for the relicensing of three and the initial licensing of another three existing aerial electric transmission and distribution lines over and across certain Public Waters in the State of New Hampshire; and

WHEREAS, in order to meet the requirements of service to the public, the Petitioner must maintain electric transmission and distribution lines over and across those certain Public Waters, which lines are an integral part of its electrical system; and

WHEREAS, in order to discharge its obligations to the public to provide safe electric service, the Petitioner has reviewed all of its installations of lines across Public Waters; and

WHEREAS, the review has disclosed instances where crossings have been changed or have not been initially licensed; and

WHEREAS, the location, construction and design of the crossings the Petitioner is seeking to license or relicense are specifically identified in the petition; and

WHEREAS, the definition of "Public Waters" contained in the limited purposes of RSA 371:17 includes "all ponds of more than ten acres, tidewater bodies, and such streams or portions thereof as the Commission may prescribe"; and

WHEREAS, the Commission prescribes these subject crossings to be over and across Public Waters; and

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WHEREAS, three of the crossings identified in the petition as #03, #10, and #16, were previously licensed but construction changes have taken place since the original petitions were filed; and

WHEREAS, water crossing #03 over the Merrimack River in Concord, New Hampshire was licensed in 1962 by Order No. 7907 under D-E4054; and

WHEREAS, water crossing #10 over the Merrimack River in Boscawen and Canterbury, New Hampshire was licensed in 1961 by Order No. 7753 under D-E3972; and

WHEREAS, water crossing #16 over the Merrimack River in Concord, New Hampshire was licensed in 1962 by Order No. 7907 under D-E4054; and

WHEREAS, three of the crossings identified in the petition as #21, #30, and #31 were never licensed; and

WHEREAS, crossing #21 spans the Merrimack River in Concord, New Hampshire, crossing #30 spans the Suncook River in Chichester, New Hampshire, and crossing #31 spans the Soucook River in Concord and Pembroke, New Hampshire; and

WHEREAS, the Concord Electric Company stated that the electric line clearances as depicted on Drawings No. CAT35P13, CAYDP001, CA775P16, CAYDP002, CAYDP003, and CAYDP004, respectively, on file with the Commission, exceed the minimum requirements of the National Electrical Safety Code; and

WHEREAS, Staff has verified that these clearances exceed the minimum requirements of the 1993 National Electrical Safety Code; and

WHEREAS, the Commission finds such water crossings necessary for the Petitioner to meet its obligations to serve customers within its authorized franchise area, thus being in the public good; and

WHEREAS, the public should be offered the opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than August 31, 1993; and it is

FURTHER ORDERED, that the Petitioner effect said notification by: (1) causing an attested copy of this order to be published no later than August 16, 1993, once in a newspaper having general circulation in the areas where the crossings are located; (2) providing, pursuant to RSA 541-A:22, a copy of this order to the Concord, New Hampshire City Clerk and to the Boscawen, Canterbury, Chichester, and Pembroke, New Hampshire Town Clerks, respectively, by First Class U.S. mail, postmarked on or before August 16, 1993; and (3) documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before September 1, 1993; and it is

FURTHER ORDERED *NSI*, that authority be, and hereby is granted, pursuant to RSA 371:17 *et seq.* to the Concord Electric Company to maintain and operate transmission and distribution lines over and across Public Waters of the State of New Hampshire at the locations described in this docket, effective September 3, 1993 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all reconstruction conform to the requirements of the National Electrical Safety Code and all other applicable safety standards in existence at that time.

By order of the New Hampshire Public Utilities Commission this fourth day of August, 1993.

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NH.PUC*08/04/93*[75162]*78 NH PUC 425*Energy Policy Act of 1992

[Go to End of 75162]

Re Energy Policy Act of 1992

DE 93-071

Order No. 20,924

78 NH PUC 425

New Hampshire Public Utilities Commission

August 4, 1993

Order Revising the Due Dates for QF Compliance with Commission Order No. 20,918.

BY THE COMMISSION:

ORDER

On May 27, 1993 the Commission Staff issued Data Requests to the eighty (80) Qualifying Facilities (QFs) selling energy and/or capacity to New Hampshire electric utilities. The Staff sought information on ownership, project financing, project operations, fuel supply and an analysis of project expenses and revenues over time. Staff Data Requests Set No. 1, *Energy Policy Act*, DE 93-071, (May 27, 1993). The Commission required the facilities to provide the information by June 25, 1993. *Energy Policy Act*, DE 93-071, Order No. 20.880, (June 22, 1993).

On August 2, 1993, the Commission issued Order No. 20,918 ordering noncomplying QFs to supply to the Commission by August 6, 1993 the information requested in the May 27, 1993 Data Requests or representatives of the noncomplying QFs are ordered to appear at the Commission on August 10, 1993 to show cause why their long term rate orders should not be rescinded or their long term contracts reviewed and denied for failure to answer the May 27, 1993 data requests.

On August 2, 1993, Bristol Energy Corporation, *et al*, filed in the United States Court of Appeals for the First Circuit an Application for Injunctive Relief Pending Appeal and Request for Immediate Relief.

WHEREAS, an additional week is needed to allow the Circuit Court of Appeals to address the Motions for Injunctive Relief; and

WHEREAS, the following QFs have not responded to the Commission's Data Requests:

No Response

River Bend Hydro

Salmon Brook Station #3

Stevens Mill

Webster Lake

Refusal to answer significant questions/requests

Bio-Energy Corp.
Bristol Energy Corp. (Alexandria Power)
Bridgewater Power Company, L.P.
Hemphill Power and Light Company
Pinetree Power, Inc. (Bethlehem)
Pinetree Power - Tamworth, Inc.
Timco
Whitefield Power and Light Company
Energy Tactics (Dunbarton Road Landfill)
American Hydro - Peterborough
Avery Station
Boston Felt Hydro
Briar Hydro
China Mill
Clement Dam
Errol Hydro
Exeter River Hydro
Golden Pond
Great Falls Lower Gregg Falls
Hadley Falls
Hoague Sprague
Hosiery Mill
Kelley's Falls
Lakeport Station
Lisbon Hydro
Milton Hydro (Spaulding)
Mine Falls
Nashua Hydro
Pembroke Hydro
Penacook Upper Falls
Penacook Lower Falls
Pittsfield Hydro

Rollinsford
Salmon Falls
Wheelabrator Concord
Wheelabrator Claremont
it is hereby,

ORDERED, that the August 6, 1993 date for the responses of noncomplying QFs to the May 27, 1993 Data Requests is moved to August 13, 1993; and it is

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FURTHER ORDERED, that the August 10, 1993 Show Cause hearing for all QFs which have not supplied the requested information is moved to August 18, 1993, 10:00 am at the Commission.

By order of the New Hampshire Public Utilities Commission this fourth day of August, 1993.

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NH.PUC*08/05/93*[75163]*78 NH PUC 426*Arbour v. Southern New Hampshire Water Company, Inc.

[Go to End of 75163]

Arbour v. Southern New Hampshire Water Company, Inc.

DC 92-052
Order No. 20,925
78 NH PUC 426

New Hampshire Public Utilities Commission

August 5, 1993

Petition for Reimbursement of Costs; Report and Order Granting in Part and Denying in Part the Requested Relief.

Appearances: Michael J. DiCola, Esq., on behalf of Carole Arbour; Boutin & Solomon, P.A., by Edmund J. Boutin, Esq., on behalf of Southern New Hampshire Water Company, Inc.; and Robert B. Lessels, P.E., on behalf of the New Hampshire Public Utilities Commission Staff.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

This docket was opened on receipt of a complaint filed on behalf of Carole Arbour on March

13, 1992, against Southern New Hampshire Water Company (SNHW). The complainant petitioned for reimbursement of \$19,082.50, plus interest, for an existing water main to be replaced and extended to new housing being constructed for the complainant on Hill Street in the town of Hudson, New Hampshire.

The area in question has been franchised to SNHW or its predecessor at least since 1965 when a 2 1/4-inch cement lined cast iron water main was installed along Hill Street, from its intersection with Newland Avenue for a distance of approximately 400 feet in an uphill direction towards Essex Avenue.¹⁽⁴⁵⁾

The complainant and her mother, Bernice Lavoie, conveyed the property to Etchstone Properties, Inc., a developer, pursuant to an agreement of sale dated July 6, 1991 (Exhibit 2). Ms. Lavoie has signed all her right, title and interest in the proceeds of the sale to the complainant.

Etchstone entered into an agreement with SNHW (Exhibit 6) to replace the 2 1/4-inch main on Hill Street in order to provide service to the 4 Etchstone lots at 4, 6, 8 and 10 Hill Street. SNHW advised Etchstone that in order to provide adequate water service to the 4 lots in question, approximately 400 feet (from Essex Street to Hill Street Lot No. 10) would have to be replaced with a 6-inch main at Etchstone's expense. Etchstone agreed in order to expedite construction time frames. In accordance with this agreement, SNHW invoiced Etchstone and Etchstone paid the sum of \$19,082.50 for the replacement of the Hill Street water main to the Etchstone properties.

The agreement of sale entered into between Arbour, Lavoie and Etchstone provided that Etchstone was entitled to a credit from the complainant against the \$185,000 purchase price for the full cost of securing public water and sewer services to the 4 Hill Street lots in question as well as to 3 lots on a neighboring street.²⁽⁴⁶⁾

Accordingly, the \$185,000 purchase price for the Hill Street lots was reduced by the \$19,082.50 expense of water main construction to said lots. Thus, it was the complainant, and not Etchstone, who ultimately incurred the financial expense of the water main construction.

With this complaint, Ms. Arbour asserts that the existing 2 1/4- inch main would have been sufficient to serve her properties and that the \$19,082.50 cost of replacing the Hill Street main should be reimbursed to her by SNHW. Another argument that she raises in support of her claim is that SNHW used its superior bargaining position as a public utility to mandate the improvement project as a condition precedent to providing public water service. She further asserts that SNHW had no legal authority

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to charge Etchstone for the construction work in question since it lacked the requisite tariff or special contract authorization to make such a charge.

II. POSITION OF THE PARTIES AND COMMISSION ANALYSIS

SNHW contests the standing of Ms. Arbour to file this complaint, indicates that it was prudent to replace approximately 400 feet of the existing 2 1/4-inch main with a 6-inch main and asserts that the agreement with Etchstone (Exhibit 6) providing that Etchstone would pay all related costs was justified and authorized under its existing tariff.

SNHW raised allegations of various procedural errors which we find to be without merit. The company asserts that the commission failed to issue an order of notice for these proceedings and provided the company with only 13 days notice prior to the scheduled hearing. No objections were raised to this effect at hearing (Tr. Day 1 at 19) nor was there any request by the company for a continuance. Thus, even if notice were defective, SNHW has waived, through failure to take timely action, any rights it may have had for redress. However, notice in these proceedings was adequate. In its trial brief, SNHW correctly noted that, "on March 25, 1992 NHPUC issues Notice that a hearing is to be held on April 15, 1992."³⁽⁴⁷⁾ N.H. Admin. Rules Puc 203.01 provides for a minimum of 14 days notice of hearings. Here, the Commission provided 21 days notice to SNHW.

SNHW further asserts that the NHPUC failed to provide them with a copy of the complaint and did not afford SNHW an opportunity to answer the charges in writing, as required under RSA 365:2.⁴⁽⁴⁸⁾ In fact, the complainant included with her complaint, filed on April 6, 1992, certification that a copy of the Petition for Reimbursement of Costs and Other Pleadings were served on SNHW by hand delivery to the company offices at 322 Nashua Road, Londonderry, New Hampshire on March 23, 1992. Until the filing of its post-hearing brief, SNHW did not indicate an interest in having an opportunity to respond to the charges in writing before going to hearing. SNHW had a full opportunity to provide both written and oral testimony at or prior to the two extensive hearings held on April 15, 1992 and April 22, 1992 and made no request at hearing for additional opportunities.

Regarding standing, SNHW asserts that the complainant was not a party to the Water Main Extension & Service Agreement (Exhibit 6) and that she did not participate in any of the negotiations leading up to the execution of the agreement or in SNHW's performance of the agreement. The record is clear, however, that Ms. Arbour is the only aggrieved party in that she was ultimately responsible for paying the cost of the line replacement. Any residual rights of Etchstone under the agreement were assigned to Ms. Arbour (Exhibit 8).⁵⁽⁴⁹⁾ Etchstone was represented at the hearings, a witness for Etchstone was examined by SNHW and Etchstone testified in support of Ms. Arbour's claim. Although perhaps there were more appropriate legal options available to the complainant than filing this complaint with the PUC long after the controversial deeds were accomplished, we find that Ms. Arbour has standing before this commission to bring her complaint.

SNHW contends that this complaint is barred by the doctrine of laches. SNHW offered no legal authority in support of this claim and did not persuasively argue why laches, a remedy in equity, should bar this action. At issue here is whether SNHW had legal authority to enter into the contract in question and to charge Etchstone for replacing the Hill Street water main. Both Etchstone and Ms. Arbour's attorney knew of the opportunity to appeal SNHW's conditions for the provision of water service to the lots in question. They could have requested expedited review by the PUC of the need for the upgrade from a 2 1/4-inch to a 6-inch main and of the obligation of the developer, as opposed to ratepayers in general, to pay the cost of any needed upgrade.

It is not clear from the record why the complainant did not question the arrangements either before construction commenced or with specific notice to SNHW that they will proceed with the

agreement only under protest with

intent to promptly file appropriate complaints with the PUC.

To the extent a laches-like remedy is available in administrative proceedings⁶⁽⁵⁰⁾, laches is principally a question of the inequity of permitting the claim to be enforced and requires more than the mere passage of time.⁷⁽⁵¹⁾ The application of laches must be determined from all of the circumstances of the case, including the harm occasioned by the delay.⁸⁽⁵²⁾

Here, SNHW did not specify why it was prejudiced by the delay, nor did SNHW quantify alleged resultant damages. It is conceivable that SNHW's efforts to expedite the construction project at Etchstone's request could have caused the company additional expense or could have delayed the company's provision of similar services to other customers. However, the record does not identify, document, or quantify these or any other damages which may have been suffered by SNHW as a result of the complainant's failure to raise her concerns earlier. We therefore find SNHW's assertion that Ms. Arbour's complaint should be barred *in its entirety* by application of laches (or a laches-like remedy), to be without merit.

Southern argues that neither Etchstone nor Arbour entered into the contract under duress. We agree with Southern that, although there were construction exigencies that Etchstone wished to pursue, this action could have been brought sooner, even simultaneously with the execution of the agreement and the commencement of construction work. Ms. Arbour's attorney was present during the negotiations and was apprised by Southern of the opportunity to appeal Southern's decision relating to replacement of the Hill Street main to this Commission. He chose not to do so at that time.

Necessity

The parties disagree as to the necessity of replacing the existing 2 1/4-inch line on Hill Street with a 6-inch main in order to serve the property in question. The witness for SNHW, Mr. Helberg, testified that he recommended the 2 1/4-inch main be replaced with a 6-inch main because, after an on-site inspection, he was concerned about the adequacy of the 2 1/4-inch main and the detrimental effect 4 new houses would have on SNHW's ability to provide adequate water service to the existing homes. He indicated that one consideration in his recommendation of the 6-inch main was the possibility of future expansion in fire protection. He indicated that the addition of four new houses to a 2 1/4-inch main could reduce water pressure to below minimum standards and would accelerate degradation of the smaller main due to the high water velocity needed to meet demand via an undersized main.

Ms. Arbour's witness on this issue was Charles V. Nelson, P.E., currently a consultant and formerly an employee of the Water Supply and Pollution Control Division of the New Hampshire Department of Environmental Services. He inspected the Hill Street area, correctly identified the fire protection needs relating to the main in question and prepared a computer model regarding the need for a new main (Exhibit 10). According to Mr. Nelson, with the addition of the 4 new homes proposed at 4, 6, 8 and 10 Hill Street, under fire-fighting conditions, the pre-existing main would have provided a minimum of 39.4 pounds per square inch (psi) at

ground level, well in excess of the required 20 psi. Thus, Mr. Nelson concluded that the 2 1/4-inch main would have provided adequate water pressure and supplied Hill Street even with the additional Etchstone units (see Ex. 14).

The Staff expert, Water Engineer Robert G. Lessels, called to the stand by the Hearings Examiner, agreed with Ms. Arbour's witness, Mr. Nelson, that replacement of the existing line was not necessary for either fire protection or quality of service reasons. He therefore questioned the necessity and prudence of replacing the line. In his opinion, SNHW did not have the authority to charge Etchstone for the line replacement and testified that such an expense should be brought before the Commission as part of a general rate request. He indicated that the concern expressed by SNHW's witness that water pressure could fall below required limits on Hill Street in the event of fire flow in the vicinity was unfounded and that the Town of Hudson indicated that there was no need for additional provisions for fire protection (Ex. 4).

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The record is clear that the 4 houses in question were consistent with the general development of the neighborhood. Their construction should have been anticipated in 1965 when the 2 1/4-inch main was installed given the residential nature of the neighborhood, the short length of the street, the standard lot sizes and the type of structures typical of the neighborhood. The requirements relating to main size have changed since 1965 so that, although the 2 1/4-inch main would have sufficed at the time of installation, today's State requirements would require at least a 6-inch main to be installed. Thus, SNHW may have had some justification in replacing the main, but it is not clear as to whether it was reasonable to do so. That determination cannot be made unless and until it is brought before the Commission for adjudication in the context of a rate case or other appropriate proceeding. Thus, to the extent the costs associated with the replacement of the 2 1/4-inch line with a 6-inch line are not to be allowed, the question of whether SNHW should be allowed to recover the costs from their general ratepayers will be determined, if at all, in a subsequent rate proceeding.

Tariff Authorization

The ability of a public utility to charge for its services is governed by, *inter alia*, RSA 374:2 and RSA Chapter 378. RSA 374:2 provides:

Charges. All charges made or demanded by any public utility for any service rendered by it or to be rendered in connection therewith, shall be just and reasonable and not more than is allowed by law or by order of the public utilities commission. Every charge that is unjust or unreasonable, or in excess of that allowed by law or by order of the commission, is prohibited.

RSA 378:1 provides, in pertinent part, that, "[E]very public utility shall file with the public utilities commission, and shall print and keep open to public inspection, schedules showing the rates, fares, charges and prices for any service rendered or to be rendered..." These schedules on file with the Public Utilities Commission are referred to as the utility's tariffs. Unless the Commission orders otherwise, no utility can change the prices it charges for its utility services "except after 30 days' notice to the commission and such notice to the public as the commission shall direct."⁹⁽⁵³⁾

The only exception to this procedure is for special contracts for services, which also require prior Commission approval.¹⁰⁽⁵⁴⁾ Thus, for the charges in question to be authorized, they must be provided for either by approved special contract or in SNHW's tariff. The parties agreed that the contract in question does not constitute a special contract pursuant to RSA 378:18, leaving us with a question of whether SNHW's tariff authorizes the charge.

The only authorization cited by SNHW for its charges to Etchstone for replacement of the 2 1/4-inch main is its tariff, NHPUC No. 7 -

Water (Ex. 7). The tariff provides that "extensions of main pipes to serve new customers will be made in accordance with the provisions of the Main Pipe Extension Plan set forth in the tariff."¹¹⁽⁵⁵⁾ The section of SNHW's tariff which pertains to developer extensions is found on pages 15A and 15B of Schedule NHPUC No. 7 - Water (Hudson Water Company),¹²⁽⁵⁶⁾ in effect since January 1, 1978.

This section, considered in conjunction with the general extension policies set forth in the tariff at Fourth Revised Page 14 and Third Revised Page 15, consistently refer to line "extensions" and not to line "replacement". Whether these tariff provisions cover line replacements that are necessary in order to provide service to an additional customer turns on whether the "extension" implicitly includes upgrades or replacement of existing lines. Although we find that there may be sound policy reasons for holding prospective customers responsible for the cost of main replacements that are necessary in order to provide the service to them, we find that SNHW's tariff, as currently worded cannot be construed so as to include "main replacement" in the definition of "main extension". The tariff at Fourth Revised Page 15A and Third Revised Page 15B, provides that:

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If an extension is requested to provide water service to a prospective housing development or for other purposes of the speculative nature, then the utility will require the developer to advance the entire estimated cost of the extension *based on the size of pipe required to serve the development*. (Emphasis added)

SNHW maintains that such language demonstrates that changing the size of an existing main in order to provide service to a new customer is authorized under the tariff. The Staff witness and the Complainant's witness assert that this interpretation does not conform with the ordinary meaning of the term "extension". The PUC Staff testified that SNHW's interpretation of the tariff is not consistent with industry's use of the term, which differentiate between "main extension" and "main replacement".

On review of the tariff language, we find that it does not provide the necessary authorization for SNHW to charge Etchstone for the replacement of the 2 1/4-inch Hill Street main. Portions of the tariff allow the Company to deny an extension request where it "...will tend in any way to constitute discrimination against other customers of the company".¹³⁽⁵⁷⁾ Thus, if Etchstone were constructing a brewing facility, rather than the anticipated residences typical of the community, the unanticipated and extraordinary demand for water associated with the prospective customer could justify a special contract or a new tariff provision where the costs caused by the

prospective customer should be paid by that customer. Here, SNHW did not implement this tariff provision and did not seek Commission approval of the contract in question. Had the Company done so, we would have been able, before the fact, to adjudicate the necessity of installing the larger pipe as well as the legal and equitable issues involved in who should pay associated costs.

Here, where the houses in question were typical of the neighborhood and should have been anticipated by the water company in 1965 when the 2 1/4-inch main was installed, it appears that the need, if any, for the larger main cannot fairly be attributed exclusively to Etchstone. All customers along Hill Street benefit from the larger main and the stricter state requirements developed since 1965 cannot be attributed to Etchstone.

Findings

Although it maybe in the public interest if SNHW's tariff were revised to allow for equitable allocation of costs relating to main replacements, we find that, as currently worded, the applicable tariff does not provide the necessary authorization for the contract in question. Nor did SNHW meet its burden to demonstrate the line replacement was necessary in order to serve the Etchstone properties.

On the other hand, we are concerned about the behavior of the complainant and her agents in this process. Etchstone was offered an opportunity to come before the Commission for our determination as to the necessity of the main replacement or cost allocation.¹⁴⁽⁵⁸⁾ The complainant's attorney likewise opted to proceed with the contract rather than seek timely adjudication of the issues at bar. Had they come to the Commission, SNHW would have been able to better determine the appropriateness of implementing its tariff option of denying extension of service¹⁵⁽⁵⁹⁾ and the reasonableness of replacing the 2 1/4-inch main rather than simply connecting the properties in question to the existing main. Neither party is without fault in this matter. On review of the record as a whole, it is apparent that SNHW knew that a special contract may be required in the circumstances presented here.¹⁶⁽⁶⁰⁾ On the other hand, SNHW advised Mr. Slattery of Etchstone that they could go to the Commission for approval of their agreement as a special contract but Mr. Slattery preferred not to.¹⁷⁽⁶¹⁾ SNHW's attempts to accommodate Etchstone's needs by not seeking Commission approval in exchange for Etchstone's promise to pay resultant costs, affected the timing and perhaps the cost of the project. Had the issue of the line replacement been adjudicated prior to job completion, costs associated with the replacement may have been avoided. Expediting the project at Etchstone's request rather than awaiting a time when SNHW's resources would be avail-

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able in due course carries undetermined costs, including possible delays in servicing other customers. Thus, Southern was induced by Etchstone to place itself or its ratepayers at financial risk in reliance upon Etchstone's representations. Ms. Arbour, through her attorney, was aware of these circumstances and did not object at the time. In light of these circumstances, we feel that it would be inequitable to order SNHW to refund the entire \$19,082.50 plus interest amount in controversy. We cannot encourage the kind of behavior engaged in by either party to this proceeding, and find that it would be inequitable to allocate the entire cost of the main replacement to SNHW or its ratepayers.

SNHW asserts that even if the complainant "could somehow be deemed to be entitled to reparations, Arbour has no interest in seeking recovery of any sums over and above the original contract amount set forth on Exhibit 5 (\$13,250.00), since these additional expenses were incurred by the utility solely at the election of Etchstone, who sought to bundle the cost within the reimbursement clauses of the Purchase & Sales Agreement, Exhibit 2".¹⁸⁽⁶²⁾ In the absence of quantification by SNHW of damages associated with its expedition of the project at Etchstone's behest, this figure of \$13,250 is appropriate reimbursement to Ms. Arbour for her expenses incurred under her Purchase & Sales Agreement with Etchstone. If she has a qualm with Etchstone's actions, she can take them up directly with Etchstone.

Our order will issue accordingly.

Concurring: August 5, 1993

ORDER

Based upon the foregoing report, which is a part hereof, it is hereby

ORDERED, that Southern New Hampshire Water Company, Inc. reimburse to the Complainant the sum of \$13,250, without interest, for her equitable share of expenses incurred under her Purchase and Sales Agreement with Etchstone Properties, Inc. relating to the replacement of the water main on Hill Street; and it is

FURTHER ORDERED, that the Petitioner's request for findings of fact and ruling of law filed on April 22, 1992, is granted insofar as they are consistent with our findings and are otherwise denied.

By order of the New Hampshire Public Utilities Commission this fifth day of August, 1993.

FOOTNOTES

¹A map of the area in question was marked as Exhibit No. 1A and is titled "Portion of Hudson Tax Map 59-Subdivision Plan No. 510 Neighborhood Lots," which is included as Attachment 1 to this Report and Order.

²Exhibit 2, Section 4.0, iii and Petition for Reimbursement of Costs at 3.

³SNHW trial brief, dated June 2, 1992 at 5.

⁴SNHW trial brief at 6.

⁵*See, Langford v. Town of Newton*, 119 NH 470 (1979); *Wise Shoe Co. v. Town of Exeter*, 119 NH 700 (1979); *Appeal of Town of Plymouth*, 125 NH 141 (1985).

⁶"Where there are no 'statutory time limitations applicable to particular administrative proceedings...the question of whether or not there is a bar by time may turn on the question of Laches.'" *Appeal of Plantier*, 126 N.H. 500 at 504-505, citing numeral 2 Am. JUR. 2d *Administrative Law*, § 321 (1962).

⁷*Ibid.* at 505.

⁸Id.

⁹RSA 378:3.

¹⁰RSA 378:18 provides that "[N]othing herein shall prevent a public utility from making a contract for service at rates other than those fixed by its schedules or general application, if special circumstances exist which render such departure from the general schedule is just and consistent with the public interest, and the commission shall by order allow such contract to take effect.

¹¹NHPUC No. 7 - Water, SNHW, Inc. Fifth Revised Page Twelve.

¹²Ex. 7. Hudson Water Company was the predecessor to SNHW.

¹³Ex. 7, NHPUC No. 7 - Water, Hudson Water Company, Second Revised 13, effective January 1, 1978.

¹⁴Tr. II at 106.

¹⁵Tariff NHPUC No. 7 - Water, Hudson Water Company, Second Revised Page 13, effective January 1, 1978.

¹⁶Tr. II at 106.

¹⁷*Ibid.*

¹⁸Trial brief of SNHW at 10.

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NH.PUC*08/09/93*[75164]*78 NH PUC 432*Energy Policy Act of 1992

[Go to End of 75164]

Re Energy Policy Act of 1992

DE 93-071

Order No. 20,926

78 NH PUC 432

New Hampshire Public Utilities Commission

August 9, 1993

Supplemental Order Revising the Due Dates for QF Compliance with Commission Order Nos. 20,918 and 20,924.

BY THE COMMISSION:

ORDER

On May 27, 1993 the Commission Staff issued Data Requests to the eighty (80) Qualifying

Facilities (QFs) selling energy and/or capacity to New Hampshire electric utilities. The Staff sought information on ownership, project financing, project operations, fuel supply and an analysis of project expenses and revenues over time. Staff Data Requests Set No. 1, *Energy Policy Act*, DE 93-071 (May 27, 1993). The Commission required the facilities to provide the information by June 25, 1993. *Energy Policy Act*, DE 93-071, Order No. 20,880 (June 22, 1993); and

WHEREAS, on August 2, 1993, the Commission issued Order No. 20,918 ordering noncomplying QFs to supply to the Commission by August 6, 1993 the information requested in the May 27, 1993 Data Requests or representatives of the noncomplying QFs are ordered to appear at the Commission on August 10, 1993 to show cause why their long term rate orders should not be rescinded or their long term contracts reviewed and denied for failure to answer the May 27, 1993 data requests; and

WHEREAS, on August 2, 1993, Bristol Energy Corporation, *et al*, filed in the United States Court of Appeals for the First Circuit an Application for Injunctive Relief Pending Appeal and Request for Immediate Relief; and

WHEREAS, on August 4, 1993, by Order No. 20,924, the Commission granted an extension of time in which QFs are to file responses to data requests and, if responses are not filed, appear before the Commission in a show cause hearing; and

WHEREAS, in subsequent days, an appeal of Commission orders regarding data requests were filed by certain QFs in the New Hampshire Supreme Court and an injunction was sought by the Granite State Hydropower Association in the New Hampshire Superior Court; and

WHEREAS, additional time is needed to allow the Circuit Court of Appeals and other courts to address the Motions for Injunctive Relief; and

WHEREAS, the following QFs have not responded to the Commission's Data Requests:

No Response

River Bend Hydro

Salmon Brook Station #3

Stevens Mill

Webster Lake

Refusal to answer significant questions/requests

Bio-Energy Corp.

Bristol Energy Corp. (Alexandria Power)

Bridgewater Power Company, L.P.

Hemphill Power and Light Company

Pinetree Power, Inc. (Bethlehem)

Pinetree Power - Tamworth, Inc.

Timco

Whitefield Power and Light Company
Energy Tactics (Dunbarton Road Landfill)
American Hydro - Peterborough
Avery Station
Briar Hydro
China Mill
Clement Dam
Errol Hydro
Exeter River Hydro
Golden Pond
Great Falls Lower
Gregg Falls
Hadley Falls
Hoague Sprague
Hosiery Mill
Kelley's Falls
Lakeport Station
Lisbon Hydro
Milton Hydro (Spaulding)
Mine Falls

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Nashua Hydro
Pembroke Hydro
Penacook Upper Falls
Penacook Lower Falls
Pittsfield Hydro
Rollinsford
Salmon Falls
Wheelabrator Concord
Wheelabrator Claremont
it is hereby,

ORDERED, that the August 13, 1993 date for the responses of noncomplying QFs to the

May 27, 1993 Data Requests is moved to August 20, 1993; and it is

FURTHER ORDERED, that the August 18, 1993 Show Cause hearing for all QFs which have not supplied the requested information is moved to August 27, 1993, 10:00 a.m. at the Commission.

By order of the New Hampshire Public Utilities Commission this ninth day of August, 1993.

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NH.PUC*08/10/93*[75165]*78 NH PUC 433*Southern N.H. Water Co.

[Go to End of 75165]

Re Southern N.H. Water Co.

DR 93-133

Order No. 20,927

78 NH PUC 433

New Hampshire Public Utilities Commission

August 10, 1993

Approval of Minimum Charge for 1 1/2 Inch Meters.

BY THE COMMISSION:

ORDER

WHEREAS, on July 14, 1993 Southern N.H. Water Company Inc. submitted revisions to its currently effective tariff which would establish a minimum charge for 1 1/2 inch meters; and

WHEREAS, the current effective tariff for Southern N.H. Water Company Inc. does not contain a minimum monthly charge for 1 1/2 inch meters; and

WHEREAS, the methodology used to develop the proposed rate for the 1 1/2 inch meter charge is the same as that adopted by the Commission in Docket DR 89-224 for the establishment of meter costs; and

WHEREAS, after investigation the Commission has found the proposed changes would be in the public good; it is hereby

ORDERED, that NHPUC No. 8 Water, fourth revised page 43 superseding 3rd revised page 43, fourth revised page 45 superseding 3rd revised page 45, fourth revised page 47 superseding 3rd revised page 47 be and hereby are approved to be effective on August 16, 1993.

By order of the New Hampshire Public Utilities Commission this tenth day of August, 1993.

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NH.PUC*08/16/93*[75166]*78 NH PUC 433*New Hampshire Electric Cooperative, Inc.

[Go to End of 75166]

Re New Hampshire Electric Cooperative, Inc.

DR 93-145
Order No. 20,928
78 NH PUC 433

New Hampshire Public Utilities Commission

August 16, 1993

1993-1994 Winter Interruptible Program.

BY THE COMMISSION:

ORDER

On July 30, 1993, New Hampshire Electric Cooperative, Inc. (NHEC) filed testimony and exhibits supporting proposed changes to its tariff, N.H.P.U.C. No. 15 Electricity, which are designed to offer eligible member customers service under Rate IPS, Interruptible Electric Primary Service, and Rate ISS, Interruptible Electric Secondary Service; and

WHEREAS, the proposed changes include Original Pages 38A through 38F describing the proposed tariff offerings; and

WHEREAS, NHEC's previous Winter Interruptible Programs have been offered under Special Contracts; and

WHEREAS, NHEC proposes to discontinue the Code 20 category of Interruptible Load and replace it with a Code 200 category of Interruptible Load; and

WHEREAS, NHEC is also proposing to permit members to sign Member Service Agreements containing the basic provisions of the program for periods extending to three (3) years; and

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WHEREAS, NHEC is proposing a November 1, 1993 starting date of the 1993-1994 Interruptible Load Program; and

WHEREAS, a thorough review of NHEC's proposal is necessary before the Commission can render a decision on the 1993-1994 Winter Interruptible Program; it is hereby

ORDERED, that a prehearing conference be held before the Commission at its offices at 8 Old Suncook Road, Concord, New Hampshire, at 1:00 p.m. on September 2, 1993; and it is

FURTHER ORDERED, that NHEC proposed tariff pages 38 A through F are hereby suspended pending further review and decision and; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify

all persons desiring to be heard at said hearing by causing a copy of this order of notice to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than August 19, 1993 and is to be documented by affidavit filed with this office on or before September 2, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 541-A and Puc 203.02, any party seeking to intervene in the proceeding must submit a motion to intervene with a copy to the petitioner and the Commission on or before August 31, 1993.

By order of the New Hampshire Public Utilities Commission this sixteenth day of August, 1993.

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NH.PUC*08/16/93*[75167]*78 NH PUC 434*Public Service Company of New Hampshire

[Go to End of 75167]

Re Public Service Company of New Hampshire

DR 93-023

Order No. 20,929

78 NH PUC 434

New Hampshire Public Utilities Commission

August 16, 1993

Report and Final Order Approving in Part and Denying in Part Fuel and Purchased Power Adjustment Clause Charges.

Appearances: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Robert P. Knickerbocker, Jr., Esq. and Gerald Garfield, Esq. of Day, Berry and Howard for Northeast Utilities Service Company; Michael W. Holmes, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; Susan W. Chamberlin, Esq. on behalf of the Commission Staff.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

Public Service Company of New Hampshire (PSNH), on March 22, 1993 filed with the New Hampshire Public Utilities Commission (Commission) a request for establishment of a rate under the Fuel and Purchased Power Adjustment Clause (FPPAC) for the period June 1, 1993 through November 30, 1993, in the amount of \$0.00335 per kilowatt hour (KWH). This request was subsequently amended on May 7, 1993 to \$0.00122 per KWH.

The Commission held hearings on the amended FPPAC request from May 11 through 13,

1993. On May 12, 1993, PSNH amended its FPPAC request to \$0.00124 per KWH, in light of the Memorandum of Understanding between PSNH, Northeast Utilities Service Company (NUSCO), North Atlantic Energy Corporation (NAEC), and the State of New Hampshire. The Memorandum of Understanding, if approved, will resolve a number of issues regarding PSNH and its rates, including adjustment to the FPPAC rate for FAS 106 and

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109 accounting. The terms of the Memorandum of Understanding will be fully litigated in Docket No. DR 93-092. PSNH, the Office of Consumer Advocate (OCA) and the Commission Staff (Staff) filed briefs on May 25, 1993.

On May 28, 1993, the Commission issued Order No. 20,858 which established the new FPPAC rate for the period June 1, 1993 through November 30, 1993 at \$0.00110 per KWH and addressed other issues raised in this docket. This report will more fully detail the positions of the parties and Staff and reasons for the Commission's determinations.

II. POSITIONS OF THE PARTIES AND STAFF

A. *Public Service Company of New Hampshire*

1. Performance of Seabrook Station

PSNH argued that the Commission's prudence investigation should focus on whether reasonable utility management, acting in good faith would have incurred the expense at issue. PSNH's Memorandum of Law, DR 93-023, (May 25, 1993) at 12. (PSNH Memo). The Commission should consider whether NAEC properly trained its employees, had appropriate operating procedures in place and properly monitored and evaluated its programs. Isolated worker error is not enough to warrant a disallowance.

2. Disallowances for Management Imprudence

PSNH took the position that each of the events highlighted by Staff or the OCA are the result of isolated employee error and therefore should not result in a disallowance. The January 6, 1993 outage resulted from an unanticipated feedwater flow path. This unexpected result does not constitute management level imprudence. Since the outage caused a *de minimus* power loss, the Commission should establish a threshold level below which it will not seek disallowances, as the cost to investigate such events exceeds the cost of the power loss.

On January 3, 1993, a Unit Shift Supervisor's failure to give detailed instructions to an Auxiliary Operator resulted in an outage. Where management had taken steps to prevent this type of occurrence, this individual's error does not amount to imprudence.

Seabrook's second refueling outage took place on September 7, 1992 through November 13, 1992. A worker's failure to properly reset actuators resulted in a fourteen hour deviation from the critical path. The schedule slippage was caused by one worker's conduct and therefore is not imprudent.

During the refueling, a worker mistakenly installed strain gauges on the wrong valve during restoration of the charging system. The event is isolated worker error and does not show imprudence.

Also during the refueling, pieces of a bolt fell into the reactor vessel resulting in a nine hour deviation from the critical path. A failure of a fitting on the latching tool caused by the nitrogen hose catching on a handrail eventually caused the bolt to shear. The latching tool had been tested previously. The failure was unavoidable and does not amount to imprudence.

Should the Commission find that any of these events reflect management imprudence, the amount of disallowance should be mitigated by Seabrook's exceptionally high plant efficiency, the use of parts from Seabrook Unit 2, its aggressive refueling schedule and the plant's excellent operating record.

3. Confidentiality of Documents

The OCA sought access to Station Information Reports, Operating Information Reports and documents from the Institute for Nuclear Power Operations. PSNH argued that these self-critical documents are entitled to the privilege against disclosure of self-critical analyses. Disclosing these documents would chill candid self-evaluation and negatively affect plant performance and reliability.

4. Energy v. Capacity Transactions

PSNH argues that capacity sales result in the loss of NEPOOL capacity credit while energy sales do not. Energy transactions require

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an exchange of capacity so that there is no change in either the buyer's or the seller's NEPOOL capability responsibility. Staff's arguments do not warrant any change to these definitions which are accepted by all NEPOOL participants.

Concerning the flow-through of energy-related revenue, NU/PSNH states that all of the net benefits from energy sales that are allocated to PSNH flow through to customers in FPPAC, even if the energy sale had benefits from a capacity charge or energy reservation charge.

5. Small Power Producer Negotiations

According to PSNH, under Section 12 of the Rate Agreement, NU is required to use its best efforts to renegotiate PSNH's arrangements with 13 small power producers (SPPs). As the avoided costs of eight of these SPPs are recovered currently through FPPAC, the status of the negotiations was questioned during this FPPAC period. PSNH agrees to a six month deadline to report to the Commission on these negotiations. PSNH does not believe the Commission should order it to initiate a docket. Similarly, PSNH should not have to discuss the negotiations publicly at this time, due to confidentiality arrangements.

B. *Office of Consumer Advocate*

1. Performance of Seabrook Station

OCA argues that ratepayers are not responsible for the creation of outage extensions and, therefore, should not be held responsible for replacement power costs. Market efficiency requires that those that have responsibility bear replacement power costs. Overall good performance should not excuse events caused by unreasonable or imprudent activities. Individual activities

which are unreasonable or imprudent and contribute to an outage or extension should result in the disallowance of the replacement power costs.

2. Disallowances for Management Imprudence

According to OCA, the January 6, 1993 loss of generation was caused by an inadequate review of a procedural modification. Even though the power loss was minimal, there should not be a threshold level below which investigation will not take place because what is important about this event is not its size but its cause. The OCA concurs with Staff's recommended disallowance for the outage.

The January 3, 1993 outage was the result of inadequately detailed communications between the Unit Shift Supervisor and the Auxiliary Operator. These miscommunications occurred three times. These events were unreasonably and imprudently incurred and PSNH should bear the replacement power costs.

The OCA concurs in Staff's evaluation of the refueling outage extension caused by the improperly reset actuators and supports Staff's conclusion that PSNH should bear the replacement power costs that resulted. Whether the event was caused by inadequate work controls or inattention to detail, a disallowance is appropriate.

The extension of the refueling outage caused by a worker's installation of a strain gauge on the wrong valve should result in a disallowance because the error was reasonably avoidable by deliberate attention to detail and proper verification of the work to be done.

PSNH should bear the costs of replacement power purchased due to a latching tool fitting failure because the installation was observed by a crew member who was responsible for the successful completion of the task.

3. Confidentiality of Documents

The OCA argued it must have access to self-critical documents concerning Seabrook operations to fulfill its statutory obligations to the people of New Hampshire. Staff's verification of the document's contents does not adequately insure that ratepayer's interests are protected. Disclosure should not affect a nuclear plant employee's willingness to provide information any more than it would an employee of

Page 436

any other regulated business, such as an accountant or treasurer. Where there is no documented evidence of safety related problems due to disclosure, such arguments are speculative. To the extent that there are legitimate concerns with protecting sensitive information, the Commission can issue protective orders.

In the alternative, the OCA seeks to develop other ways in which the OCA may have access to information to create a more meaningful review of planned refueling outages.

4. Energy v. Capacity Transactions

The OCA supports Staff's definition of a capacity sale. Where the Sharing Agreement defines a sale of up to a month's duration as an energy sale, the OCA believes this thirty day distinction is more appropriate than NU's arbitrarily chosen seven day period.

5. Small Power Producer Negotiations

For the last several FPPAC proceedings, the OCA asked about the status of the SPP renegotiations. Delay in resolution of the renegotiations causes an increase in the deferred balance to be collected after the fixed rate period which may result in rate shock to the ratepayers. The Commission should establish a docket to examine and possibly revise the contracts.

C. Commission Staff

1. Performance of Seabrook Station

Staff argued that the prudence standard for disallowance of replacement power costs for unscheduled outages, outage extensions, and power reductions was determined by the Commission in DR 91-011, Order No. 20,280 (October 25, 1991). Imprudence exists when an error results from management decisions which contribute to or fail to uncover employee error. A distinction between management level error and individual employee error establishes a middle ground between a demand for perfection and the elimination of any review based on total performance standards.

2. Disallowances for Management Imprudence

Staff asserted that the January 6, 1993 outage caused by a procedure modification was the result of management level imprudence. Management review of the design and procedure change failed to uncover the change in the feedwater flow path which ultimately resulted in a power loss. The Commission should disallow the replacement power costs. The Commission should not implement a threshold level of lost generation before considering a disallowance because a flaw in procedure indicates a management level problem which, if not corrected, could result in more serious consequences in the future.

The January 3, 1993 outage was the result of management level imprudence. The Unit Shift Supervisor, a management level employee, failed to properly instruct the Auxiliary Operator, whose incomplete actions eventually resulted in a shutdown. Therefore, the replacement power costs should be disallowed.

An outage extension caused by a worker's failure to properly reset actuators was the result of management level imprudence. Work control documents inadequately instructed the worker in resetting the actuators. Management's failure to identify the mechanical stop and to properly train the worker imprudence goes beyond individual error. The Commission should disallow the replacement power costs accordingly.

In recognition of the extraordinary monetary benefits to the ratepayers from Seabrook's high plant efficiency and the savings from its use of Unit 2 components, Staff recommended a 50% reduction in the disallowance of replacement power costs.

3. Confidentiality of Documents

Staff did not see the need to increase the availability of self-critical documents. Where Staff has access to the confidential documents to verify the information presented to

the public, the accuracy of the public documents is maintained without the chilling effect of full public disclosure.

4. Energy v. Capacity Transactions

Staff argued that the value of a transaction for a period of less than a month is the value of the energy and therefore the transaction is properly defined as an energy transaction. From a purchaser's point of view, a purchase of capacity under NEPOOL rules for a period of less than a month, typically confers no value separate from the energy value.

The Sharing Agreement's express terms define energy transactions as "purchases and sales of energy with third parties that do not span at least one full calendar month." Where NU/PSNH's definition ignores the Sharing Agreement's one month distinction, it cannot be upheld.

Concerning energy reservation charges and capacity charges, all revenues from energy sales, regardless of whether they are derived from an energy reservation charge or a capacity charge should accrue to ratepayers' benefit. The flow of revenues should not depend on the arbitrary designation of a charge as a capacity or energy reservation charge.

5. Small Power Producer Negotiations

Staff urged the Commission to take three actions regarding the SPP negotiations: order PSNH to petition for a new docket to be opened; make the rates embodied in the long term rate orders temporary to protect ratepayers from the accumulation of deferred costs; and order PSNH to document its efforts at renegotiation within a reasonable time frame.

III. COMMISSION ANALYSIS

A. *Performance of Seabrook Station*

Staff argued that the total amount of disallowances the Commission might order should be shared in this instance on a 50/50 basis between ratepayers and shareholders, in recognition of the extraordinary monetary benefits to the ratepayers from Seabrook's high plant efficiency and the savings from its use of Unit 2 components. There is no question that Seabrook Station has been operated extremely well during the past six months, and its performance since it began commercial operation has been outstanding. NAESCO is justifiably proud of attaining a capacity factor of 97.1% during Seabrook's second operating cycle.

Despite this impressive record, however, we do not accept Staff's recommendation that any disallowances be reduced by 50%. We do not find an adequate basis in the record of this proceeding to impose such a sharing and, mindful of the Supreme Court's admonitions in a recent case involving sharing of liabilities for natural gas costs, we are reluctant to impose any sharing or mitigation mechanism without first fully exploring such a mechanism on the record. *See, In Re: Northern Utilities*, 133 N.H. 449 (1992). The parties or Staff may wish to present a mechanism for mitigation of disallowances in light of other factors to the Commission at a future FPPAC proceeding.

We do not mean by this that a company's good performance should entitle it to special reward. High quality management should be the norm, and we believe that NAESCO will continue to live up to its high standards of management irrespective of financial incentives. We are willing to consider, however, a mechanism by which extraordinary measures taken by a

company which directly and substantially benefit ratepayers may be taken into account and serve to offset some or all of a disallowance.

B. Disallowances for Management Imprudence

We agree with Staff that a determination of imprudence is warranted when there is a showing that management actions contribute to or fail to uncover employee error. Staff Brief at 3.

We do not believe that every error or unexpected cost should result in a disallowance. Moreover, as we have previously held, there need not be a pervasive pattern of mis-

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management in order to find imprudence. *Re Public Service Company of New Hampshire*, 76 NH PUC 645 (1991). As we found in the above cited case, we will evaluate prudence by examining individual outages rather than the overall performance of a plant. *Id.* at 654.

An evaluation of management's prudence should govern regardless of the seriousness of the error. We will not, therefore, impose a threshold or minimum dollar value when evaluating imprudence. To impose such a threshold and allow a situation which currently has only minor consequences go unchecked, could lead to a far more serious situation in the future.

We have reviewed the outages and extension of the planned outage which Staff and OCA argue are the result of management imprudence, and the two additional outage extensions which OCA alone argues are the result of management imprudence. We have ordered disallowance of a total of \$395,560 in replacement power costs occasioned by these outages or outage extensions, which reduces the FPPAC rate to \$0.00110 per KWH. The disallowances are as follows:

We find that management failed to properly train personnel and develop adequate work documents regarding emergency feedwater turbine steam supply valves, which resulted in a technician improperly resetting the actuators. This extended the scheduled refueling outage by fourteen hours, requiring PSNH to purchase \$102,410 in replacement power.

We believe that management had inadequate procedural guidance for feedwater system operations and did not sufficiently train or communicate with personnel regarding the system, which resulted in an Auxiliary Operator's failure to un-isolate condensate heaters. This caused a generation loss of 56,301.7 MWH, requiring PSNH to purchase \$293,000 in replacement power.

We find that management failed to adequately review a procedural change regarding the feedwater system, which caused a generation loss of 19.2 MWH, requiring PSNH to purchase \$150 in replacement power.

We will not disallow the replacement power costs attributable to the refueling outage extension caused by technicians' actions leading to a broken nitrogen line on the latching tool. We believe that this error was not the result of a failure of management.

Similarly, we will not disallow the replacement power costs attributable to the refueling outage extension caused by a technician installing a strain gauge on the wrong valve during a charging system restoration, as it too was an error which was not the result of failure of management.

Finally, throughout the testimony regarding extension of planned outages, there was a

suggestion that a company might avoid penalty for falling behind schedule by intentionally allowing for slippage in the refueling or other planned outage. NAESCO testified, and Staff and OCA concurred, that building in an arbitrary contingency factor in planned outages was unwise.

We applaud NAESCO for its aggressive schedule and its strong performance in keeping close to the target times. Our decision to disallow certain replacement power costs should not be read as a "punishment" for establishing an aggressive schedule, but merely as a cost incurred by shareholders in the course of the refueling. We are more concerned about the activities during an outage that indicate problems such as a weakness in communication or failure to adequately train certain personnel than we are with the number of days involved or the cost of replacement power. We would be equally concerned to hear that employees were being pressured to meet deadlines at all costs, even at the expense of safety as we would to discover that NAESCO had suddenly developed a far less aggressive refueling plan in an effort to pad the schedule. We accept NAESCO's representations that NAESCO would not intentionally "pad" its schedule.

For those reasons we have asked that PSNH, OCA and the Staff explore meaningful review of planned outages in general, regardless of whether a particular schedule is met. We believe this will eliminate any disincentive to establish an aggressive planned outage schedule and provide for consistent and meaningful review of management actions during the outage, irrespective of deadlines.

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C. Confidentiality of Documents

We have considered the arguments of OCA to obtain greater access to self-critical documents generated by NAESCO and the concerns expressed by NAESCO that wider dissemination of those reports will result in greatly reducing the willingness of NAESCO employees to be forthright and detailed in their analysis of problems which arise. We remain convinced that such documents are valuable to us as regulators, and must ensure that we create an environment in which the responsible parties are encouraged to explore and analyze events which caused or extended outages. We believe that a limited dissemination of such reports is necessary to ensure full disclosure of events leading to plant shutdowns and to further ensure accurate reflection of critical data in the OPRRs. We will continue to rely on the Staff to study those reports and be certain that PSNH accurately reflects their content and conclusions during FPPAC proceedings.

While we do not find a basis on which to order disclosure of confidential self-critical documents to the OCA, we are intrigued with OCA's "alternative" request for relief on this matter, that is, developing other ways in which the OCA may share in meaningful review of planned refueling outages. As such, we directed in Order No. 20,858 (May 28, 1993), that PSNH, OCA and the Staff explore ways in which OCA might further participate in review of outages, short of NAESCO delivering OCA copies of the confidential documents.

D. Energy v. Capacity Transactions

We have reviewed the arguments advanced by the Staff regarding its interpretation of the Rate Agreement, the Sharing Agreement and the operations of NEPOOL, and cannot conclude, based on the record before us, that NUSCO and PSNH have acted improperly in their treatment or designation of capacity and energy transactions. By this we do not mean that we are

comfortable with all actions taken by NUSCO and PSNH in their treatment of energy and capacity and commend the Staff in exploring these questions and bringing them to the attention of the Commission and to PSNH. We do not, however, find sufficient evidence to conclude that PSNH and NUSCO should be prohibited from treating energy and capacity as they now do.

We must be clear, nevertheless, that we are concerned with Mr. Sabatino's statement that NUSCO will always endeavor to obtain capacity charges for sales under one week in order to benefit its shareholders (Transcript May 13, 1993 page 30). We recognize that the distinction between an energy reservation charge and a capacity charge can, at times, be difficult to discern, particularly in short term transactions. One option would be to declare that all revenues derived from transactions lasting less than one week, whether derived from an energy reservation charge or a capacity charge would accrue to the benefit of ratepayers, and apply this "rule" on a prospective basis. We are not prepared, based on the record before us to make this determination. We would ask for input, however, from PSNH, the OCA and Staff on this issue during the next FPPAC proceeding so that we may establish a clearer distinction between energy and capacity sales. We also await reports in future proceedings of power transactions or other activities which have been developed for the purpose of bringing savings to ratepayers, even if done so at the expense of shareholders, in an effort to balance the policy articulated by Mr. Sabatino.

E. Small Power Producer Negotiations

We will not at this time open a docket regarding SPP long term rates or convert those rates to temporary rates, as we believe PSNH and the SPPs should be engaging in negotiations on their own. We will, however, set a deadline of September 1, 1993, by which time the parties to the SPP negotiations shall produce results or abandon negotiations. We asked in Order No. 20,858 (May 28, 1993) that PSNH notify all parties to the SPP negotiations of this deadline and our determination that if by September 1, 1993 there has been no resolution of the SPP rate dispute between the parties, we will take appropriate action.

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As to PSNH's proposed short-term rates for SPPs, we found the rates as delineated in Exhibit 14 in this case to be reasonable and approved them in Order No. 20,858 (May 28, 1993).

Our order will issue accordingly.

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that to the extent that there should be a conflict between the language of the report accompanying this order and Order No. 20,858 (May 28, 1993), the report shall govern; and it is

FURTHER ORDERED, that in all other respects, the terms of Order No. 20,858 are in effect; and it is

FURTHER ORDERED, that for purposes of rehearing and appeal, the effective date of this order shall govern for all terms contained within this report and Order and Order No. 20,858.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of August,

1993.

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NH.PUC*08/16/93*[75168]*78 NH PUC 441*Southern N.H. Water Co.

[Go to End of 75168]

Re Southern N.H. Water Co.

DE 92-100
Order No. 20,930
78 NH PUC 441

New Hampshire Public Utilities Commission
August 16, 1993

Application of GMSA Rate to Green Hills Metered Customers.

BY THE COMMISSION:

ORDER

WHEREAS, on July 14, 1993 Southern N.H. Water Co. submitted a revised tariff page which would allow the company to apply the currently effective tariff rate GMS-A to its customers in the Green Hills area currently being converted to metered service; and

WHEREAS, the staff has reviewed the proposed inclusion of the Green Hills customers in Southern N.H. Water Company Inc. GMS-A rate and finds the inclusion to be consistent with the methodology approved in DR 89-224 in Commission Order 20,196; and

WHEREAS, the application of GMS-A is in the public good; it is hereby

ORDERED, Southern N.H. Water Co. proposed fourth revised page 43 superseding 3rd revised page 43 is hereby approved for effect on August 16, 1993.

By order of the New Hampshire Public Utilities Commission this sixteenth day of August, 1993.

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NH.PUC*08/16/93*[75169]*78 NH PUC 441*Hampton Water Works Company

[Go to End of 75169]

Re Hampton Water Works Company

DF 93-142

Order No. 20,931

78 NH PUC 441

New Hampshire Public Utilities Commission

August 16, 1993

Order Approving Short Term Debt Level.

BY THE COMMISSION:

ORDER

WHEREAS, Hampton Water Works Company, ("Hampton Water" or the "Company"), is a public utility engaged in the gathering and distribution of water to the public in the Towns of Hampton, North Hampton, and in the Jenness and Rye Beach areas of the Town of Rye, New Hampshire; and

WHEREAS, the Company having filed with the Commission on July 26, 1993, a petition for the approval of its current short term debt level which would provide a short-term line of credit to the Company in the amount of Three Million Seven Hundred Thousand Dollars (\$3,700,000) retroactively to April 1st, 1993; and

WHEREAS, the line of credit approved by the Company's Board of Directors and established by State Street Bank and Trust Company ("State Street") for use by Hampton Water on or after April 1, 1993, exceeds the ten percent (10%) guideline set forth in N.H. Admin. Rule 609.18; and

WHEREAS, the Company has filed simultaneously a petition to issue long-term debt in the amount of Three Million Dollars (\$3,000,000) and additional common stock in the amount of Four Hundred Thousand Dollars

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(\$400,000), the proceeds of which will be used to reduce the short-term debt obligation to State Street to zero, thereby eliminating the outstanding short-term debt with State Street. After the permanent financing, the line of credit will be kept available at a level not to exceed Five Hundred Thousand Dollars (\$500,000), well under the ten percent (10%) level set forth in N.H. Admin. Rule 609.18; and

WHEREAS, the purpose of the short-term debt will be in order to meet its typical working capital needs and to fund capital and construction requirements; and

WHEREAS, since April 1, 1993, the Company has drawn only a portion of the short-term credit available. The highest credit limit reached was Two Million Two Hundred Thousand Dollars (\$2,200,000); it is hereby

ORDERED, that Hampton Water Works Company be, and hereby is, granted authorization, pursuant to RSA 369:7, to enter into an agreement with State Street Bank and Trust Company to borrow Three Million Seven Hundred Thousand Dollars (\$3,700,000) for a period not exceeding twelve (12) months, such borrowing to be in accordance with terms and conditions set forth in

the petition; and it is

FURTHER ORDERED, that on April 1st, 1994, and/or at such time as this short-term financing as described is concluded, Hampton Water Works Company shall file with this Commission, a detailed statement, duly sworn to by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of this financing; and it is

FURTHER ORDERED, that this Order shall be effective August 16, 1993.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of August, 1993.

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NH.PUC*08/16/93*[75170]*78 NH PUC 442*New England Telephone Company

[Go to End of 75170]

Re New England Telephone Company

DR 93-140

Order No. 20,932

78 NH PUC 442

New Hampshire Public Utilities Commission

August 16, 1993

Order Suspending Network Reconfiguration Service Tariffs.

BY THE COMMISSION:

ORDER

On July 22, 1993 New England Telephone Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce Network Reconfiguration Service (NRS) for effect August 21, 1993; and

WHEREAS, on August 6, 1993, the Company filed corrected cost data supporting the filing; and

WHEREAS, the proposed rates submitted by the Company require further investigation by Staff; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 75

Part C - Section 11, Table of Contents Page 1

Section 11, Original Pages 1 through 6

are suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this sixteenth day of August, 1993

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NH.PUC*08/16/93*[75171]*78 NH PUC 443*Kearsarge Telephone Company

[Go to End of 75171]

Re Kearsarge Telephone Company

DR 92-140
Order No. 20,933
78 NH PUC 443

New Hampshire Public Utilities Commission

August 16, 1993

Order Authorizing Approval of Centrex Service.

BY THE COMMISSION:

ORDER

On July 20, 1992, Kearsarge Telephone Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce Centrex service for effect August 21, 1992; and

WHEREAS, the proposed tariff pages were suspended by Order No. 20,572 on August 18, 1992 to allow for further investigation by Staff; and

WHEREAS, on May 17, 1993, and on July 28, 1993, the Company submitted corrected cost support information; and

WHEREAS, the Commission Staff has investigated this filing including accompanying cost, usage and revenue documentation and provided a recommendation to the Commission; and

WHEREAS, upon review of the petition and the Staff recommendation, the Commission finds the proposed offering to be in the public good; it is therefore

ORDERED, that the following tariff pages of Kearsarge Telephone Company are approved:

NHPUC - No. 7

Section 3, Original Sheet 26

Section 3, Original Sheet 27

Section 3, Original Sheet 28

Section 3, Original Sheet 29

Section 3, Original Sheet 30 and it is

FURTHER ORDERED, that the above tariff pages shall be effective as of the date of this

order; and it is

FURTHER ORDERED, that the above additions to NHPUC No. 3 Tariff be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this sixteenth day of August, 1993

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NH.PUC*08/16/93*[75172]*78 NH PUC 443*New England Telephone and Telegraph Company

[Go to End of 75172]

Re New England Telephone and Telegraph Company

DR 93-144
Order No. 20,934
78 NH PUC 443

New Hampshire Public Utilities Commission
August 16, 1993

Order Granting Protective Treatment.

BY THE COMMISSION:

ORDER

On July 30, 1993, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission) a request for approval of a special contract for a Digital Centrex System service between NET and GTC Leasing, Inc. (Special Contract). Included in the filing were supporting materials to explain the purpose of the contract, its cost support and billing service details (Supporting Materials); and

WHEREAS, NET filed a Motion for Protective Order on the Special Contract and for interim proprietary treatment of the Special Contract and Supporting Materials; and

WHEREAS, in its motion NET states that the Special Contract and Supporting Materials contain customer specific, competitively sensitive data including "cost analyses, network size, routing and configuration data; information regarding specific service features; and other contract terms such as term, special rates and billing information;" and

WHEREAS, the information identified above is a necessary part of the filing, and important for Commission Staff to review in evaluating the proposed contract; and

WHEREAS, the commission recognizes the importance of staff having the opportunity to review fully the materials which support a proposed special contract, in order to responsibly carry out its duties; it is hereby

ORDERED, that the Motion for Protective Order is granted to allow Staff review of the

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Special Contract and Supporting Material; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Commission Staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A and Puc 204.07.

By order of the New Hampshire Public Utilities Commission this 16th day of August, 1993.

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NH.PUC*08/16/93*[75173]*78 NH PUC 444*Pennichuck Water Works, Inc.

[Go to End of 75173]

Re Pennichuck Water Works, Inc.

DR 91-220

Order No. 20,935

78 NH PUC 444

New Hampshire Public Utilities Commission

August 16, 1993

Order Approving Certain Rate Case Expenses.

BY THE COMMISSION:

ORDER

WHEREAS, Pennichuck Water Works, Inc. filed a summary of rate case expenses June 10, 1993 in the amount of \$9,191.58, and

WHEREAS, Pennichuck Water Works, Inc., on June 10, 1993, filed First Revised Page 36-A, Recoupment of Rate Case Expense for Maple Haven, Derry, New Hampshire, to recoup said \$9,191.58 from its 62 customers at an annual surcharge per customer of \$148.25, or \$6.18 per month, and

WHEREAS, the Staff has reviewed the summary of rate case expenses and made its recommendations to this Commission, and

WHEREAS, correction of a minor error causes a slight increase in the amount submitted from \$9,191.58 to \$9,213.14, and

WHEREAS, the Staff is recommending that, of the \$9,213.14, the amount of \$2,109.01 was expended for franchising of the system and therefore should be capitalized in Account 2302,

"Franchise and Consents", rather than expensed, and that the remaining amount of \$7,104.13 is rate case expenses, it is hereby

ORDERED, that the rate case expenses of Pennichuck Water Works, Inc. in the amount of \$7,104.13 be recovered by means of a surcharge over a two-year period, and it is

FURTHER ORDERED, that Pennichuck Water Works, Inc. file the revised tariff page so that it can recoup the rate case expenses, and it is

FURTHER ORDERED, that Pennichuck Water Works, Inc. file an accounting of the rate case expenses at the end of each calendar year with this Commission.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of August, 1993.

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NH.PUC*08/17/93*[75174]*78 NH PUC 444*WilTel of New Hampshire, Inc.

[Go to End of 75174]

Re WilTel of New Hampshire, Inc.

DE 93-137

Order No. 20,936

78 NH PUC 444

New Hampshire Public Utilities Commission

August 17, 1993

Order *Nisi* Approving WilTel II and WilPlus III WATS Services.

BY THE COMMISSION:

ORDER

On July 19, 1993 WilTel Incorporated (WilTel) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce WilTel II and WilPlus III, which are new inbound and outbound WATS services designed for the commercial marketplace; and

WHEREAS, WilTel proposed the filing become effective August 18, 1993; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may

submit their comments or file a written request for a hearing on this matter before the Commission no later than September 14, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, WilTel cause

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an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than August 27, 1993 and is to be documented by affidavit filed with this office on or before September 14, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of WilTel Tariff PUC No.1 - are approved:

10th Revised Page 1

1st Revised Page 5

2nd Revised Page 7

1st Revised Page 11

4th Revised Page 25

Original Page 30.1

1st Revised Page 32

2nd Revised Page 34

3rd Revised Page 35

3rd Revised Page 37

3rd Revised Page 39

1st Revised Page 40

4th Revised Page 42

3rd Revised Page 49

2nd Revised Page 50

5th Revised Page 51

2nd Revised Page 52

1st Revised Page 53

6th Revised Page 54

2nd Revised Page 54.1

1st Revised Page 54.2

1st Revised Page 54.3

1st Revised Page 54.4

Original Page 54.5
Original Page 54.6
Original Page 54.7
Original Page 54.8;
and it is

FURTHER ORDERED, that WilTel file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective September 16, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this seventeenth day of August, 1993.

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NH.PUC*08/17/93*[75175]*78 NH PUC 445*LDDS Communications, Inc. d/b/a ATC New Hampshire, Inc.

[Go to End of 75175]

Re LDDS Communications, Inc. d/b/a ATC New Hampshire, Inc.

DF 93-104

Order No. 20,937

78 NH PUC 445

New Hampshire Public Utilities Commission

August 17, 1993

Petition for Authority to Transfer Control of a Telecommunications Utility in New Hampshire, and Waiver of Accounting and Related Rules.

BY THE COMMISSION:

ORDER

On May 18, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition (petition) from LDDS Communications, Inc. (LDDS), and its New Hampshire operating subsidiary, ATC New Hampshire, Inc. (ATCNH). ATCNH was certified as a telecommunication utility by NH PUC Order No. 20,575, in Docket DE 92-133. ATCNH is a wholly-owned subsidiary of Advanced Telecommunications Corporation (ATC), which is, in turn, a wholly-owned operating subsidiary of LDDS.

The petition described a complex financial merger between LDDS and M/R Corporation (M/R Corp). M/R Corp is itself the product of an anticipated merger between Metromedia

Communications Corporation and Resurgens Communications Group, Inc., scheduled to occur immediately prior to (essentially simultaneously with) the LDDS-M/R Corp merger. The surviving company resulting from LDDS's merger into and with M/R Corp will be LDDS-Metro Communications, Inc. (LDDS METRO). ATC will become the operating subsidiary of LDDS METRO. ATCNH, the New Hampshire utility, will continue to be a wholly-owned operating subsidiary of ATC. The petitioner seeks Commission approval of the above transaction and financial transactions undertaken to affect the merger, with respect to the New Hampshire utility, ATCNH.

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WHEREAS, ATCNH is the New Hampshire telecommunications utility, certified by NH PUC Order No. 20,575, in DE 92-133; and

WHEREAS, the record indicates that ATCNH's financial, managerial and technical abilities will not be detrimentally affected by the LDDS METRO merger, and will likely be positively affected; and

WHEREAS, upon investigation by the Staff, the Commission finds the public good will be served by approval of the LDDS METRO merger, with respect to the New Hampshire certificated telecommunications utility, ATCNH; and

WHEREAS, the rates and services of ATCNH will not be affected by the petition; and

WHEREAS, the petition seeks, *inter alia*, approval of, or waiver of, rules regarding debt obligations and the issuance of securities related to the LDDS METRO merger, with respect to the New Hampshire certificated telecommunications utility, ATCNH; and

WHEREAS, the petitioner filed a timely and proper "Motion for Waiver of Accounting Rules," specifically NH Admin. Rules Puc 406.03 - Accounting Rules, 409 - Uniform System of Accounts (USOA), and 407.02 - 407.13 - Forms Required for All Telephone Utilities; and

WHEREAS, the Commission has previously found that granting similar waivers of certain rules is in the public interest, and granted a similar waiver to U.S. Sprint in Order No. 19,764, dated March 19, 1990, and to WilTel in Order No. 20,632, dated October 13, 1992; and

WHEREAS, ATCNH represents that it uses Generally Accepted Accounting Practices (GAAP); and

WHEREAS, the Commission finds that granting the limited waiver of rules is in the public interest; it is

ORDERED, that approval is granted authorizing the LDDS METRO merger, with respect to the New Hampshire certificated telecommunications utility, ATCNH; and it is

FURTHER ORDERED, ATCNH's Motion for Waiver of Accounting Rules, described above, and limited to the specifically referenced rules is granted; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow ATCNH to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow ATCNH to operate outside the conditions set forth in its authorization to provide intrastate telecommunications services, as granted in NH PUC Order No. 20,575, and as subsequently amended by Orders of this Commission. By order of the New Hampshire Public Utilities Commission this seventeenth day of August, 1993.

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NH.PUC*08/20/93*[75176]*78 NH PUC 446*Investigation into New England Telephone's Long Distance Dialing Plan for New Hampshire

[Go to End of 75176]

Re Investigation into New England Telephone's Long Distance Dialing Plan for New Hampshire

DE 93-003

Order No. 20,938

78 NH PUC 446

New Hampshire Public Utilities Commission

August 20, 1993

Report Adopting "7 Digit Dialing" for Intrastate Toll Calls.

Appearances: Victor D. Del Vecchio, Esq., on behalf of New England Telephone and Telegraph Company Inc., Mark R. Perkell, Esq. on behalf of Long Distance North, Carl G. Geisy, Esq. on behalf of MCI Telecommunications Inc., Orr and Reno by Thomas C. Platt, Esq. on behalf of Contel of New Hampshire d/b/a/ GTE NH, Devine, Millimet and Branch by Anu R. Mather, Esq. on behalf of Granite State Telephone Inc., Merrimack County Telephone, Wilton Telephone Company Inc., Dunbarton Telephone Company Inc., and Bretton Woods Telephone Company; Office of the Consumer Advocate by James R. Anderson, Esq. on behalf of residential ratepayers, E. Barclay Jackson, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

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BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

At its public meeting on January 4, 1993, the Public Utilities Commission (Commission) requested Staff to look into whether it was appropriate to open a docket with respect to the New England Telephone and Telegraph Company (NET) announcement of its intention to eliminate

dialing "1" when making intra-state long distance telephone calls (intra-state toll calls or intraLATA toll calls). Following Staff's recommendation, at its January 12, 1993, public meeting the Commission voted to open a docket and to hear comments from NET, other telephone companies, and members of the public at a public hearing noticed and held in the evening.

At the public hearing on February 4, 1993, NET made a presentation of its proposed change to "7 digit dialing" for all intrastate toll calls, rather than the traditional use of 7 digits for calls within the local service area and 1+ 7 digits for intrastate toll calls.

By Order of Notice issued March 29, 1993, the Commission set a procedural schedule, ordered mandatory party status for the Local Exchange Carriers (LECs), requested the mandatory parties to consolidate their participation in the docket, directed the Interexchange Carriers (IXCs) to take notice of the proceedings, and scheduled a second public hearing for May 12, 1993. Hearings on the merits were set for June 2 and 3, 1993.

The parties to this docket are: New England Telephone (NET), MCI Telecommunications Corporation (MCI), Sprint Corporation (Sprint), Long Distance North (LDN), Contel of New Hampshire, Inc. d/b/a/ GTE NH (GTE), Kearsarge Telephone Company, Chichester Telephone Company, Dixville Notch Telephone, TDS Telecom (TDS), Union Telephone Company, Granite State Telephone, Inc., Merrimack County Telephone, Dunbarton Telephone Company, Inc., Wilton Telephone Company, Inc., and Bretton Woods Telephone Company. The latter five companies consolidated their participation and shall be referred to herein as the Five Independent Companies (the Five ICOs). Sprint submitted comments but did not otherwise participate. Kearsarge, Chichester, Dixville, and Meriden did not participate. Union observed the proceedings but did not otherwise participate. MCI and LDN, not mandatory parties, were granted intervenor status.

At the May 12, 1993, Public Hearing, the IXCs argued that the national area code shortage could be better dealt with by changing to a system dialing 1 plus the New Hampshire area code of 603 plus the telephone number (a dialing pattern known as "1+ 10 dialing.") Members of the public commented on the different dialing patterns and letters received on the issue were read into the record. Letters from the public were accepted as part of the record during the entire pendency of the case. Twenty-six letters were received.

The Commission, between June 2, 1993, and July 9, 1993, heard eight days of testimony on the appropriate dialing pattern for New Hampshire. Briefs were submitted on July 28, 1993.

II. BACKGROUND

A change of dialing patterns in the United States is necessitated by the creation of additional area codes (NPAs) to meet the ever-expanding need for more telephone numbers. The new NPAs, proposed by the North American Number Plan Administrator (NANPA), will utilize all digits (0-9) for the middle number, rather than the 0 and 1 currently used. Thus, central office codes and NPAs will be interchangeable (INPA) for switching purposes and a dialing pattern change is necessary in order for switches to distinguish them. The NANPA proposed a choice of either of two new dialing patterns for the purpose of making intraLATA toll calls: 7 digits without the toll indicator "1" or 1+ 10 digits (area code and phone number).

III. POSITIONS OF THE PARTIES AND STAFF

Introduction

The parties argue basically eight components of the dialing pattern decision,

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giving different weight to the various components. For clarity, the eight components are addressed in the same sequence for each party's position. The eight components are:

1. customer preference
2. uniformity
3. customer education
4. customer confusion and importance of the 1+ toll indicator
5. competition
6. impact on N.H. businesses
7. impact on emergency services
8. future telecommunication trends

A. *NET*

1. NET argues that the Commission should decide which dialing pattern to implement in New Hampshire on the basis of consumer preference. That being so, NET opts for the 7 digit dialing pattern because the majority of New Hampshire customers chose that pattern in a survey conducted at NET's behest by an outside market research firm, Ziment Associates, Inc. (the Ziment survey). The Ziment survey employed a centralized telephone interviewing technique, sampling 206 New Hampshire residential customers and 201 New Hampshire business customers responsible for making telecommunications decisions. For residential customers, 81% preferred the 7 digit dialing pattern. For business customers, 83% preferred the 7 digit dialing pattern. According to the survey results, NET argues, New Hampshire respondents desire the ease and speed of dialing 7 digits even knowing that the traditional 1+ toll indicator will be removed. Nonetheless, NET proposes to implement the 7 digit dialing pattern with 1+ 10 on a permissive basis, that is, intrastate toll calls dialed with a 1+ 10 pattern will go through without a problem. NET argues that this 7 digit/1+ 10 digit choice will increase consumer choice.

2. NET argues that as a result of the dialing patterns adopted throughout the United States, a majority of citizens will be dialing under the 7 digit dialing plan even though, by land area, more states will adopt the 1+ 10 digit plan. NET recommends that New Hampshire follow the majority of population and argues that the only reason more states will adopt the 1+ 10 digit plan is because the more rural states do not have the technological sophistication to utilize the 7 digit plan. NET also asserts that a more uniform regional dialing pattern is possible under the 7 digit plan because New York and New Jersey have chosen it and Massachusetts and Connecticut will possibly choose it.

3. NET's proposal to implement 7 digit dialing includes an educational component to inform customers of the change. NET plans to implement a customer education program, including bill inserts, mass media advertising, news releases and a targeted education plan aimed at key

consumer groups and customers, e.g. city and town officials, public safety organizations, legislators, civic organizations, hospitals, colleges and universities, *inter alia*. NET also plans a bill adjustment policy to credit toll calls made inadvertently in the mistaken belief that the call was local. NET argues that its education program and bill adjustment policy will minimize customer confusion and ensure customer awareness of the dialing pattern change.

4. Although with its education program and bill adjustment policy NET addresses the possibility of customer confusion surrounding the dividing lines between local and toll calls, NET argues that customers already know their local calling areas, have established calling habits, and will continue making the same calls to friends and relatives after INPA is implemented. NET supports this argument by a study in the Concord area (the Concord Study) to determine the number of times customers triggered the intercept message "it is necessary to dial a 1." NET argues that this study demonstrates that 99.63% of the time customers correctly dial their local and toll calls within the state.

NET argues that many customers do not perceive the 1+ as a universal toll indicator, that it no longer represents a "bright line" between toll and local calls because of the

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many new services, such as cellular and paging, which have emerged recently. In addition, NET points out that many municipalities in New Hampshire, because of the boundary lines of local calling areas, currently must dial a 1+ in order to call within the municipality. Such calls are billed as local calls. NET further argues that the Commission can address local calling area confusion in an upcoming docket investigating extended area service: the percentage of misdialed calls, NET states, will decrease as toll calling areas decrease.

5. Competition with other intrastate toll carriers, NET asserts, will not be affected by a change to 7 digit dialing because the number of digits dialed by customers of the LECs and IXC's will remain the same as they are now. The IXC's customers will continue to dial access code plus the number dialed by LEC customers. The dialing differences, NET argues, will remain static.

6. NET argues that businesses in New Hampshire support the change to a 7 digit dialing pattern, relying on several letters from the Business and Industry Association of New Hampshire (BIA). The BIA letters state baldly that the 1+ toll indicator is outdated and unhelpful and that removal of the 1+ toll indicator is unlikely to cause a serious problem in the business community. The problem of customer premises telephone equipment (CPE) which may have to be replaced because of incompatibility with the 7 digit dialing pattern is offset, NET argues, by the long term public benefit of 7 digit dialing.

7. NET argues that emergency service providers support the 7 digit dialing pattern on the basis that the fewer digits required in an emergency situation, the better.

8. The future trend of dialing within North America, NET avers, is toward eliminating the 1+ toll indicator or replacing it with a better indicator. NET argues that the Commission should not let an outmoded practice impede progress.

B. LDN

1. LDN, a competitor of NET for intrastate toll customers, argues that the issue of dialing

pattern should not be resolved on the basis of customer preference because (a) customers are not fully informed of the ramifications of the change, and (b) competition among service providers will be adversely affected. LDN argues that the Ziment survey was biased towards 7 digit dialing in its presentation to customers: that the wording and ordering of questions obscured the importance of the toll indicator. In addition LDN argues that the complexities surrounding the numbering plan and dialing choices are impossible to grasp during a brief survey interview. Therefore, LDN urges the Commission to give the survey little, if any, weight.

2. LDN disagrees with NET's assertion that a majority of telephone users in the region will end up with a 7 digit dialing pattern, given that the issue has yet to be ruled upon in Connecticut and Massachusetts and that Vermont and Rhode Island have very recently decided to implement 1+ 10 digit dialing, albeit Vermont is investigating whether an alternative toll indicator can be found. LDN also notes that 36 other states have or are soon to implement 1+ 10 digit dialing.

3. LDN argues that NET's educational component, while it may in fact ensure customer awareness of the dialing pattern change, is incapable of dealing with the customer confusion that will result from removing the toll indicator. That confusion itself, it is argued, creates the need for the extensive education program and the customer refund program, neither of which would be necessary were the toll indicator to remain, as it would under 1+ 10 dialing.

4. Customer confusion and its attendant costs to consumers for misdialed calls, and costs to competitors of NET as discussed in paragraph 5 below, is the main thrust of the LDN argument. Customer confusion

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about local versus toll call status is already substantial, as shown by the actual numbers, not percentages, brought forth in the NET study of misdialed calls in the Concord area. Instead of percentages, LDN cites the 2,970 times the intercept message was triggered during the 24 hour period. That number can be extrapolated out to 60,000 misdialed calls per day. LDN argues that the number of misdialed calls will increase with a 7 digit dialing pattern and that the erroneously dialed toll calls, because they will be carried by NET by default, will result in a windfall of tens of thousands of dollars to NET. In addition, LDN argues that the upcoming Extended Area Service docket, which may change local calling area boundaries, will increase confusion and thus increase NET's windfall. Further, the Commission flexibility in crafting a resolution in the Extended Area Service docket may be hampered by a removal of the toll indicator. Removal of the toll indicator represents a reduction of consumer protection relied on for forty years, asserts LDN, citing Bell South and a regional regulatory committee. The 1+ toll indicator's consumer protection encompasses the protection of the intercept messages, warning customers that the call they are making entails extra charges. Loss of the toll indicator thus includes the loss of the intercept protection and places on the consumer a burden of auditing telephone bills for mistakenly made toll calls in order to take advantage of NET's bill adjustment policy. This is an unwarranted and unnecessary burden to consumers, according to LDN.

5. LDN addresses the dialing disparity between NET and its IXC competitors, not in terms of the number of digits dialed but in terms of the enlarged dialing pattern difference which separates the IXCs from NET. LDN sees the introduction of the 7 digit dialing pattern as a

blurring of the distinction between toll and local calling which will enhance NET's competitive advantage: consumers will prefer to use one dialing pattern rather than several and, by familiarity, the one dialing pattern will be NET's.

Additional competitive advantages flow to NET via the 7 digit dialing pattern, according to LDN. Enormous bill adjustment and customer services costs will fall on the IXCs. Billing problems require extraordinary time on the part of customer service personnel. Additional staff will be necessary. Extensive and expensive customer education programs will be required. Time and personnel must be devoted to reprogramming Customer Premises Equipment (CPE) every time a new central office code is activated within a local calling area. The cost of these customer services will fall disproportionately on IXCs, with no corresponding influx of income from misdialed toll calls.

6. The problem of reprogramming CPE is one which LDN argues will impact small and medium businesses in New Hampshire dramatically. LDN predicts the PBX systems will be unable to identify toll calls by the 1+ indicator under the 7 digit plan; some PBX and CPE systems will be able to be reprogrammed by PBX managers, although at a continuing cost; some systems will have to be totally modified or replaced. The costs, as quantified by LDN, are estimated at between a few hundred dollars to well over \$10,000 per system.

7. LDN believes that the six month window of time, during which intrastate emergency numbers would require dialing the area code, weighs less heavily than the disadvantages it perceives in the 7 digit plan.

8. LDN argues that the future of the telecommunications industry calls for an expanding approach to dialing patterns. Citing plans for non-geographic area codes for personal communications systems and the rapid growth of other fields of telephone technology, LDN argues that the NANPA's resolution to evolve toward 10 digit dialing includes a recognition of the importance of the toll indicator.

C. THE FIVE ICOs

1. The Five ICOs (Granite State Telephone, Inc., Merrimack County Telephone, Dunbarton Telephone Company, Inc., Wilton Telephone Company, Inc., and Bretton Woods

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Telephone Company) argue that the choice of dialing pattern should be left to the individual local exchange companies. That said, the Five ICOs choose the 7 digit dialing pattern for three reasons. First, customer preference, citing the Ziment study, the letters from the BIA and common sense, appears to be for 7 digit dialing. Second, the availability of technology to accomplish the shorter dialing pattern should drive the decision. Third, the fact that NET's choice would be 7 digits militates a choice of 7 digits. This last argument is based on NET's dominance of the market: 94% of the access lines in New Hampshire are NET's.

2. The Five ICOs agree with NET that a majority of users in the country and in the region will be utilizing the 7 digit method. They argue that New Hampshire should follow that majority.

3. The Five ICOs agree with NET that a comprehensive educational program can be undertaken to ensure that customer confusion is minimized. They are committed to such a

program.

4. The Five ICOs agree with NET that customer confusion and inadvertent toll calls will be minimal under a 7 digit dialing pattern. Customers already know their local calling area and those who do not can ascertain the boundaries of the local calling area by several different methods: white pages, the operator, or dialing the permissive 1+ 10. The five ICOs reference NET's Concord Study to support their contention that, with proper customer education and an appropriate refund policy, the risk of customers paying for inadvertent toll charges will be minimal, if not completely eliminated.

5. The Five ICOs analyze the competitive marketplace on the basis of numbers of digits dialed. Under a 7 digit dialing pattern the number of additional digits dialed by customers of IXC's does not change.

6. The Five ICOs argue that businesses favor a 7 digit dialing pattern, citing as evidence both the 83% of the 200 businesses polled in the Ziment survey and the BIA letters.

7. The Five ICOs argue that emergency service providers meet the simplest dialing procedure possible for their constituency. They assert that the 7 digit pattern is the simplest.

8. Finally, the Five ICOs agree with NET that the future of telecommunications in New Hampshire and the world does not include the 1+ toll indicator.

D. MCI

1. MCI argues that the Ziment survey is flawed in concept and execution and that it should be rejected by this Commission as an indicator of consumers' dialing preferences, as it was by the commissions in Vermont and Rhode Island in recent decisions on the issue. MCI argues that the dialing issue has implications too complex to be fully grasped in a telephone interview. The central point of the dialing issue, according to MCI, is that of removing the 1+ toll indicator. The Ziment survey obscures the importance of the toll indicator and the effect of its removal. In addition, MCI claims that the survey used wording to prejudice respondents, making the 1+ 10 dialing pattern appear to be something new and onerous and making the 7 digit dialing plan appear familiar and easy. Rather than dwell on the preferences expressed in what it considered an flawed survey, MCI argues the benefits of the 1+ 10 digit dialing pattern.

2. MCI argues that regional uniformity of dialing pattern is impossible now that Vermont and Rhode Island have rejected 7 digit dialing and opted for 1+ 10. The benefit of uniformity, if there is one, is unattainable in the northeast or any other region of the country.

3. With regard to educating customers, MCI argues that only the toll indicator is effective in giving customers actual, real time notice that a particular call involves toll charges. In addition, MCI argues that the 7 digit dialing proposal is much more difficult to explain to customers and will therefore require a much more extensive and expensive education program, to the detriment of consumers.

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4. MCI argues that removal of the toll indicator is not in the public interest and that NET has not demonstrated what public interest is served thereby. The protections provided by the toll

indicator are not replaced, in the 7 digit dialing pattern, by any comparable protections. Removing the toll indicator, MCI believes, will cause customer confusion resulting in inadvertent toll calls, citing the NET 24 hour Concord study. On the other hand, 1+ 10 digit dialing, MCI believes, will minimize customer confusion during this mandated change in dialing patterns. The forty years of experience with a toll indicator will insure that. MCI cites commission decisions in various other states to support its conclusion.

5. The competitive telephone marketplace, MCI maintains, will be harmed in several ways by implementation of the NET 7 digit dialing pattern. First, the dialing disparity caused by the requirement that customers use access codes in order to use IXCs will be magnified in terms of form and ease of dialing. MCI differentiates this from actual number of digits dialed, claiming that NET customers will have a less onerous task in learning the new dialing pattern. MCI customers will be required to remember not just their access code but also their local calling boundaries; NET customers will not. Second, the 7 digit pattern will blur the distinction between local calls (allocated to NET) and toll calls (open to competition). Third, inadvertent or other LEC toll calls will automatically be carried by NET. Fourth, competitors will incur additional costs to deal with IXC customer confusion about local and toll calls.

6. Businesses will suffer under a 7 digit dialing plan, according to MCI, incurring higher phone bills and the expense of upgrading PBX and other CPE.

7. MCI agreed with LDN and other parties that the six month period during which intrastate emergency calls would require the area code dialled would not constitute a burden greater than those perceived in the 7 digit plan.

8. MCI argues that the future of telecommunications will include 10 digit dialing throughout the country and the world. Therefore MCI contends that utilizing the 7 digit pattern will run counter to the leading edge of development.

E. *GTE NH*

1. After studying the implications of the proposed dialing patterns in all of the 40 jurisdictions where it operates, GTE decided to select 1+ 10 digit dialing in all its service areas nationwide. GTE argues that it finds no detrimental implications from that choice and that it has received no consumer comments on the choice. GTE maintains that the NANPA suggested *two* options for dealing with the required dialing pattern change, neither being superior to the other and both being compatible for usage simultaneously. GTE therefore argues that this Commission should permit individual LECs to choose whichever of the two options the LEC finds in its best interest.

2. GTE argues that uniformity of dialing patterns is unnecessary because both 7 digit and 1+ 10 digit dialing can be accommodated simultaneously. The non-uniformity, given the availability of both options, will permit customers to dial their preferred pattern regardless of location.

3. GTE plans a customer education program comprised of several parts utilizing all practicable outreach vehicles: direct inquiry, bill inserts, press releases, newsletters and other media announcements. The company has prior experience with such an education program having executed one for 1+ 10 digit dialing in California. Several of the California materials were provided to the Commission during the course of the hearings.

4. GTE points out that 7 digit dialing alone has a disadvantage of creating customer confusion regarding toll versus local calls. This creation of the opportunity for confusion influenced GTE's choice of 1+ 10 dialing.

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5. GTE's choice of the 1+ 10 dialing pattern was also influenced by cost to the company. GTE contends that the 1+ 10 digit pattern has fewer changes necessary for implementation. The changes avoided could include replacement of central office code switches, creation of extensive customer education programs, implementation of refund mechanisms for local call/toll call mistakes, commencement of party-line regrading, and maintenance of software program changes, all of which would mean a lower cost of implementation.

6. Because GTE plans implementation of 1+ 10 dialing, it foresees no problem for its business customers regarding CPE upgrading or replacement.

7. Because GTE recommends that each company choose its preferred dialing pattern, and expects NET to choose the 7 digit plan, GTE foresees no difficulty for intrastate emergency toll calls.

8. GTE supports the position that the world is moving toward a 10 digit dialing environment, agreeing with the NANPA that 10 digit dialing is the wave of a future which includes cellular, cable, personal communications systems, non-geographic area codes, and other advanced technology.

F. *OCA*

1. The OCA argues that the Ziment survey is an inadequate basis for a dialing pattern decision because the survey does not indicate what is in the public interest for New Hampshire but merely customer preference to dial fewer digits. The OCA's contention is that the public interest is consumer protection and that consumer protection demands retention of the toll indicator as a "bright line" distinguishing local from toll calls. All of the OCA arguments flow from this theme.

2. A uniform dialing pattern within New Hampshire is urged by the OCA. A checkerboard of patterns will greatly enhance the opportunity for consumer confusion and inconvenience, it is asserted, and the uniform pattern recommended by the OCA is 1+ 10 dialing. The regional trend, as evidenced by the recent Vermont and Rhode Island decisions, is towards 1+ 10 and, the OCA argues, the trend in North America as a whole, including Canada, is toward 1+ 10.

3. The OCA argues that no customer education program can successfully substitute for the "bright line" toll indicator and its immediate feedback of the intercept messages. Forty years of experience with the 1+ toll indicator have led consumers to depend on it, according to the OCA.

4. Confusion resulting from the loss of the "bright line," the OCA maintains, will not be alleviated by NET's 7 digit/1+ 10 digit permissive plan. The OCA's concern is that consumers view 7 digit calls as "free." Under the 7 digit/1+ 10 digit permissive plan, 7 digit calls may be "free" (local) or contain toll charges. The OCA points out that its advisory board voted to support 1+ 10 digit dialing in order to avoid confusion on the part of consumers. The OCA's

concern to minimize customer confusion and inadvertently dialed toll calls is reiterated in its recommendation that 1+ 10 dialing be implemented in order to reduce confusion anticipated when this Commission addressed the upcoming extended area service and pre-subscription dockets. The OCA would have preferred addressing these dockets prior to any decision on INPA.

5. The OCA argues that, within the competitive intrastate toll marketplace, NET currently possesses an advantageous dialing position which it desires to maintain through the 7 digit plan. In addition, the OCA argues that the customer confusion and dialing errors resulting from the 7 digit plan will result in additional revenue defaulting to NET. The OCA argues that intrastate competition will be better served by the 1+ 10 pattern.

6. The cost of the 7 digit plan, the OCA argues, is significantly higher for competitors of NET and for consumers. The former

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will bear the cost of implementing the plan, as has been detailed above, and of placating confused and disgruntled customers. The latter will bear the cost of updating or replacing CPE that will not be compatible with the 7 digit plan.

7. The OCA argues that adding three digits to the dialing pattern for intrastate emergency calls does not impose a burden which outweighs the perceived disadvantages of a statewide 7 digit system.

8. The future dialing trend, OCA argues, is toward 10 digit dialing and therefore New Hampshire should follow that trend. However, consumer protection by preservation of the 1+ toll indicator is the keynote throughout the OCA's argument.

G. Commission Staff (Staff)

1. Staff argues that retention of the toll indicator is more important than the findings of the Ziment survey. The survey findings, Staff argues, cannot convey or encompass the complexities and subtleties of the dialing issue.

2. Staff argues that uniformity is germane to this decision only insofar as it deals with in-state uniformity. Without federal action, Staff maintains, uniformity, whether regional or national, is impossible. Staff urges the Commission to adopt uniform in-state 1+ 10 dialing.

3. Staff's argument for 1+ 10 dialing has, as one of its premises, a belief that no education program can deal effectively and fairly with the customer confusion which Staff believes will result in misdialed and mis-billed toll calls. The alternatives to the toll indicator, white pages, operator assistance *et al.*, Staff argues, create an unnecessary burden to customers which will prevent customers from utilizing them. Thus, confusion is assured.

4. Customer confusion surrounding local versus toll calls, Staff argues, will inevitably result from removal of the "bright line" 1+ toll indicator. Inadvertent toll calls will result in unfair charges to customers who inadvertently make calls they would otherwise forego or make with a less expensive carrier.

5. Staff points out that the inadvertent phone calls will impact competition. Seven digit toll

calls will be carried automatically over NET lines unless the customer dials the IXC access code. A customer unaware he or she is making a toll call will not use an access code. In addition, Staff argues, IXCs and NET will incur expenses to set up refunding mechanisms for customers who later discover unexpected charges.

6. Staff argues that CPE is compatible with the 1+ toll indicator but not with a 7 digit pattern. Business customers should be spared the expense of updating equipment. Citing the New Hampshire Telecommunications Association's expertise, Staff supports the view that updating equipment owned by businesses and non-profit organizations (including colleges and hospitals) can cost thousands of dollars per organization.

7. Emergency services, Staff avers, can mitigate the inconvenience of dialing more digits during the six month period before commencement of state-wide E911 by utilizing current technology. Call forwarding can permit local calls to be forwarded to the intra-state toll number without delay. Staff argues that the expense of such forwarding services is less than the expenses which could be incurred by implementing the 7 digit pattern.

8. Staff supports the view that the world is moving to universal 10 digit dialing. New Hampshire's position in a competitive world market, Staff argues, would be enhanced by choosing the 1+ 10 digit pattern.

III. COMMISSION ANALYSIS

We have reviewed the extensive testimony and exhibits, the briefs of counsel, and the letters and oral comments received from various individuals and groups in this docket. As is always the case, we very much appreciate

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the time taken by members of the public and various interest groups to provide us with their thoughtful comments.

It is beyond dispute in this docket that there is a need for additional area codes to accommodate the ever expanding need for more numbers and that the way to obtain more area codes is by allowing the use of 0 through 9 as the middle digit of area codes. (At present only the numbers 0 and 1 are used as the middle digit of area codes central office codes.) The introduction of these area codes will commence January 1, 1995, at which time intraLATA and interLATA long distance calls will become indistinguishable to telephone switching mechanisms, i.e. switches will be unable to tell if the first three digits dialed connote an area code or a central office code.¹⁽⁶³⁾ A method to differentiate the two types of long distance calls, therefore, must be found and implemented by January 1, 1995. The NANPA, which has mandated the expansion of area codes, recommends states implement one of two dialing patterns as the method for differentiating the two types of long distance calls.

In addressing the issues surrounding the choice, the Commission begins with the perspective adopted by several of the parties and Staff, articulated by the Massachusetts Attorney General, in Exhibit 62.

"First, when determining whether NET should be allowed to continue implementation of seven digit dialing in Massachusetts, it is important that the Department recognize

both approaches to intraLATA toll calling will necessarily involve some adverse impact on consumers. Both dialing patterns require consumers to become better informed about the boundaries of their local areas... The Department, thus, is not faced with a clean choice between a clearly superior and a clearly inferior dialing plan. Rather, the choice is between two imperfect plans." (Emphasis added.)

Thus the options available to us both have their advantages and disadvantages and leave us with a difficult decision.

In addition, the issue at stake here cries out for, at a minimum, a regional solution, and preferably a national solution. We believe there should have been one coordinated approach in resolving this issue to avoid confusion as people travel around the country. Such an approach would also have saved the significant resources and time expended by both litigants and regulators around the country. Unfortunately, that has not taken place. Instead, state by state decisions have been made, resulting in shifting arguments of regional or national trends as the decisions come down. To date, approximately 79 million customers are in 7 digit dialing areas and approximately 89 million are in 1+ 10 dialing areas. Those figures will change, hence no argument of regional uniformity can be given much weight. In the absence of a coordinated solution, we have no alternative but to make what we believe is the best choice for New Hampshire customers.

While the results of the Ziment study provide some indication of customer preference, we are cognizant of the problems with the study that have been pointed out by many of the parties here and recognized by other Commissions. Nonetheless, some of the comments we received during the course of this proceeding tell us that dialing 7 digits, an easier alternative, is what customers generally prefer. Further, the survey suggested that eleven percent of NET's New Hampshire customers still have rotary dial phones, and we accept the inference that more effort is needed to dial a rotary phone than a touch pad phone. This survey is not necessary in order to come to the conclusion that dialing seven digits would be preferred, but the survey tends to confirm common sense.

Inasmuch as we deplore the lack of a coordinated uniform regional solution, we cannot fail to conclude that uniformity within the state is necessary. We therefore reject the proposal of GTE and the five ICOs that we permit each LEC to choose the dialing pattern it prefers. Although we cannot avoid the customer confusion that will no doubt result from the state to state disparity in dialing patterns, we can at least avoid this type of confusion within New Hampshire by adopting one uni-

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form plan for the state. We recognize that one telephone company in the state, Dixville Notch, does not currently have the technical capability to implement 7 digit dialing. Given that Dixville Notch serves only 112 access lines, however, we do not believe that our goal of statewide uniformity is much impaired by permitting Dixville Notch to utilize the 1+ 10 dialing required by its step- by-step switches until such time as its equipment is updated.

Recognizing, as we have, that implementing either new dialing pattern brings certain disadvantages to customers, a comprehensive customer education program is imperative. The

program sketched by NET is a good beginning insofar as it alerts customers to change. The changes which new area codes initiate are broad and are only a portion of the changes we believe will come about over the next decade as telecommunications continues to grow, both technologically and competitively. Customers are required to be ever more sophisticated in their understanding of the choices offered them. They therefore have a need for complete education as well as a responsibility for taking educated actions. The telephone companies must work in concert to insure the need is met. Staff should be involved in reviewing, and suggesting changes where necessary, in the customer education programs. We therefore direct a unified, cooperative effort with NET, the IXCs, the ICOs, and Staff.

The Commission finds that the assumption made by some of the parties that customers lack the sophistication to know or determine what their local calling areas are — if that is an important factor for them before they make a call — fails to give customers enough credit. We are persuaded that the 7 digit dialing pattern is more "customer friendly".

While elimination of the toll indicator is an issue, we do not believe it is the determinative issue. Intrastate toll calls constitute only 12% of the total calls completed. In addition, the distinction between toll and local calls is already being blurred. According to NET, approximately 290,000 New Hampshire customers, or about 26% of the population of NH, reside in municipalities with municipal calling service. For these customers, use of the "1" is necessary to reach some telephone numbers within their local calling area. Paging companies and cellular services generally permit 7 digit intraLATA dialing regardless of where the customer is calling. The distinction between local and toll calls is further blurred by optional calling plans.

The Commission is not persuaded that possible consumer confusion created by the elimination of the "1" as a toll indicator should drive our decision. We do not accept the argument that we must, in this instance, protect customers from themselves: that they do not have the ability to make or are not accustomed to making an informed choice on their own. Increasingly, customers will face complex and important decisions about their telecommunications services, including which company they want to handle their long distance (inter- and intra-state) calls. Companies offer a wide variety of options to customers; selecting an appropriate company may be a difficult choice. However, we are unwilling to conclude that this choice should be made for customers by either companies or commissions. We are unwilling to conclude that customers cannot sort out local and toll calling areas.

In addition, there is an ongoing investigation by NET referred to in the decisions of other commissions to determine the feasibility of developing an alternative toll indicator. We see merit in that investigation and will require NET to keep us updated, in a timely fashion, on the status of this investigation.

Moreover, we find the ability to block one or the other dialing pattern (7 digits or 1+ 10 digits) for an individual telephone line to be of significant assistance to customers. Such blocking options appear to be responsive to the concerns expressed by the OCA Advisory Board. Based on responses received to a record request regarding the feasibility of making this blocking option available to customers, we see no technical reason inhibiting implementation of this option. Therefore, we will order NET and all of the ICOs, except Dixville Notch, to make blocking available to customers at the same time that the new dialing plan is implemented.

Recognizing that the amount and allocation of the costs of the blocking option will

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require further clarification, we will order NET and all of the ICOs, except Dixville Notch, to report to us on these issues before implementation. Only after reviewing and approving such report will we give final approval for implementation of the dialing change.

The Commission finds that an additional method to reduce customer confusion is to provide customers with self-adhesive labels which describe the customer's local calling area. We will therefore require that the telephone companies make these labels available to customers who request them.

Finally on this issue, the Commission finds that NET's bill adjustment policy is an appropriate and fair attempt to deal with customer confusion engendered by the dialing change. We will therefore require that NET and the ICOs follow this type of policy.

Much of the movement toward competition is based on the premise that customers ought to have the ability to choose among services and providers. Competition, therefore, means that customers must become more sophisticated about telecommunications in order to make well reasoned choices. The comprehensive education program necessitated by INPA will continue this on-going process of increasing customer sophistication. Within the context of INPA, the argument that a particular dialing pattern is anti-competitive is not compelling. To the contrary, we find that competition is served by well educated customers. Nor do we find compelling the argument, raised by proponents of mandatory 1+ 10 digit dialing, that 7 digit dialing creates an opportunity for toll charges to accrue to NET by default if a customer who otherwise thinks that the call is a local, not a toll call. Although this is a disturbing possibility we believe that it can be adequately addressed by customer education efforts. In addition, this argument assumes once again that customers are unsophisticated or poorly informed, and as noted above, the Commission finds this is not necessarily the case.

Logic might dictate that the Extended Area Services and presubscription dockets were better dealt with prior to or in conjunction with this docket. Staff has argued that we should support mandatory 1+ 10 digit dialing so that we do not limit our alternatives in the presubscription docket. Nonetheless, given where we are in addressing the myriad issues that need to be addressed in the telecommunications area today, and given the fact that this Commission has to work with issues and dates that are beyond its control (*e.g.*, the January 1, 1995 date for INPA implementation and July 1, 1995 for enhanced 911 implementation in New Hampshire) we need to address the issues raised here on their own merits. Obviously we have no way of knowing how technology will change in the next few years and how we will resolve some of these other issues; therefore, it is appropriate to focus primarily on this docket and the issues raised here.

One of the strongest arguments against the 7 digit proposal is the cost of reprogramming customer premises equipment that would be necessitated by adopting NET's proposal. We are mindful of the letter and public comments submitted by the New Hampshire Telecommunications Association. However, other arguments outweigh it. Most notably, the BIA, arguably one of the most representative organizations of businesses of all sizes around the state, supports NET's proposal. We conclude that the business community views this proposal as

a progressive change for which additional expense is acceptable. Also, the record of customer complaints in states which have instituted 7 digit dialing indicates an absence of complaints from businesses on this issue. Moreover, the requisite change in dialing patterns to accommodate INPA will cause some additional expense to businesses; the Commission would note that whichever proposal is adopted, some additional expense to businesses may be incurred.

The issue of emergency calling will be most satisfactorily resolved in July, 1995, when E911 becomes available statewide. The interim between that date and the implementation of INPA, however, is best served by a 7 digit dialing pattern. This issue touches only those communities now required to dial outside the local calling area to reach emergency services. Nonetheless, the dialing pattern which we believe is the best choice for all New Hampshire customers is also the best choice for

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emergency situations during that relatively brief period of time.

The future of the telecommunications industry is filled with possibilities. We make a decision here which we believe denies none of those possibilities and which offers New Hampshire telephone customers a convenient and user-friendly dialing pattern. As a means of insuring as smooth a conversion as possible we will order that the dialing change occur simultaneously statewide on a date to be determined by the Commission. We therefore will order that NET and the ICOs, with the assistance of Staff and input from the IXCs, develop a recommendation of that date recognizing the need to accommodate the simultaneous offering of the blocking option.

Our Order will issue accordingly.

Concurring: August 20, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, subject to the following provisions, that all LECs and ICOs serving New Hampshire shall implement the dialing pattern proposed by NET whereby customers may dial either 7 digits or 1 + 10 digits to complete intrastate toll calls; and it is

FURTHER ORDERED, that NET and the ICOs, with the assistance of Staff and with input from the IXCs, shall submit to the Commission proposed dates for commencement of the new dialing program; and it is

FURTHER ORDERED, that NET, the ICOs, and IXCs shall coordinate the development and implementation of a comprehensive customer education program with one another and with the Staff of the Commission; and it is

FURTHER ORDERED, that NET and the ICOs shall provide to their customers, upon request, self-adhesive labels clearly delineating the local calling area of the requesting customer, and it is

FURTHER ORDERED, that NET and the ICOs shall, through the customer education program referenced above, publicize the availability of the labels to customers ; and it is

FURTHER ORDERED, that NET and the ICOs shall make available a blocking option permitting customers to restrict individual telephone lines to either the 7 digit or 1+ 10 digit dialing pattern; and it is

FURTHER ORDERED, that NET and the ICOs shall, through the customer education program referenced above publicize the availability of the blocking option to customers; and it is

FURTHER ORDERED, that NET and the ICOs shall submit to the Commission staff, not later than January 10, 1994, cost data regarding the blocking option and the manner in which they propose to allocate those costs, subject to Commission approval; and it is

FURTHER ORDERED, that the date of commencement of the new dialing program shall coincide with the availability of the blocking option; and it is

FURTHER ORDERED, that NET and the ICOs institute the billing adjustment program as articulated during the course of the proceedings; and it is

FURTHER ORDERED, that NET shall apprise the Commission of the results of its examination of alternative toll indicators, ordered by the State of Vermont Public Service Board to be completed by December 1, 1993; and it is

FURTHER ORDERED, that the Commission will issue final approval of the dialing change contemplated herein when the above ordered requirements have been reviewed and found satisfactory by the Commission.

By order of the Public Utilities Commission of New Hampshire this twentieth day of August, 1993.

FOOTNOTES

¹ The only alternative means for a switch to distinguish between three digits dialed after the "1" connoting an area code and three digits dialed after the "1" connoting a central office code would be to incorporate a connection delay of 4 seconds. This alternative was unacceptable to all interested parties and has generally been found to be unacceptable around the country.

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NH.PUC*08/23/93*[75177]*78 NH PUC 459*New Hampshire Electric Cooperative, Inc.

[Go to End of 75177]

Re New Hampshire Electric Cooperative, Inc.

DR 92-244
Order No. 20,939
78 NH PUC 459

New Hampshire Public Utilities Commission

August 23, 1993

Report and Order Addressing Motions to Compel.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On December 31, 1992, the New Hampshire Electric Cooperative, Inc. (NHEC) filed a petition with this Commission to implement Standby and Supplemental Service rates. On March 1, 1993, the Commission issued Report and Order No. 20,772 establishing a procedural schedule to implement investigations into the proposed rates.

On May 21, 1993, NHEC propounded certain data requests to Plymouth Cogeneration Limited Partnership (PCLP), an intervenor that intends to establish a cogeneration project at Plymouth State College and may, therefore, be subject to the proposed rates, pursuant to the procedural schedule. Data request NHEC-5 requested the production of all contracts entered into between PCLP and Plymouth State College. PCLP responded to NHEC-5 stating that the information sought was confidential and irrelevant and would not, therefore, be supplied.

On June 14, 1993, NHEC filed a motion with this Commission requesting, *inter alia*, an order compelling PCLP to respond to NHEC-5.

Subsequently, Public Service Company of New Hampshire (PSNH) was made a party to the case and propounded a parallel request of NHEC-5 to PCLP. On July 30, 1993, PSNH filed also filed a motion with this commission requesting an order to compel PCLP to respond to the question. On August 2, 1993, NHEC renewed its original motion to compel of June 14, 1993, seeking a response to NHEC-5.

On August 5, 1993, the Commission, by letter of the Executive Director and Secretary, informed PCLP it must respond to the requests because it had failed to file an objection to the motions with the Commission.

On August 12, 1993, PCLP filed a motion for rehearing and reconsideration with the Commission. In its motion, PCLP stated that it had not been given the appropriate ten days to respond to the motions as provided by N.H. Admin. R., Puc 203.04, and provided a substantive response to the motions to compel.

On August 13, 1993, NHEC filed an objection to the motion for rehearing and reconsideration stating that PCLP had more than twenty days to respond to its motion to compel filed on June 14, 1993, and reiterated its substantive grounds for requiring PCLP to respond to NHEC-5.

IV. *COMMISSION ANALYSIS*

N.H. Admin. R., Puc 203.04(c) provides that objections to motions shall be filed "within ten (10) days of the date on which the motion is filed...." PCLP did not file an objection to NHEC's original motion to compel with the Commission within ten days of its original filing date. When

the Commission received a motion to compel a response from PCLP for essentially the same information contained in NHEC-5 and NHEC's renewed motion to compel it acted expeditiously to issue a ruling given the fast approaching hearing dates, given that PCLP was aware of the motion to compel the production of the subject documents from June 14, 1993 and had filed no objection with the Commission.

Thus, the Commission had no substantive basis to deny the motions, and, accordingly, they were granted.

However, given PCLP's late filed substantive response to the motion we will reconsider our previous decision.

NHEC states in its objection of August 13, 1993, that it requires all information relative to the relationship between PCLP and Plymouth State College because PCLP contends in its prefiled testimony that the proposed standby rate unlawfully discourages the development of cogeneration projects and unlawfully shifts risk to members taking back-up service as opposed to other low load customers. Objection at 5.

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We can perceive of no circumstance where the contractual relationship between PCLP and Plymouth State College would be relevant, or could lead to relevant evidence, concerning the rather broad allegations of illegality set forth in PCLP's testimony as the allegations are generic in nature. Should the relevance of the contractual relationship between PCLP and Plymouth State College become apparent, however, as the hearings progress NHEC is free to renew its motion at that time.

NHEC goes on to state in its objection that certain off the record comments have been made by PCLP to the effect that under the proposed rates its project "doesn't work". Whether PCLP's particular project is economic under the proposed standby and backup rates is irrelevant to our decision in this case. We will base our analysis of the appropriateness of the rates on the cost of the service provided and the general public policy interests involved. Thus, no testimony relative to the particular economic feasibility of the proposed PCLP project will be permitted negating the need for the requested materials.

The gravamen of PSNH's contention that it is entitled to the requested information is its ability to show bias on the part of PCLP and a possible challenge to PCLP's standing as a party to this proceeding.

In regard to the issue of bias, we assume PCLP would be a NHEC member and ratepayer should its proposed project go forward, and, as a ratepayer we will assume that PCLP suffers a negative economic impact the higher rates are set in this proceeding. Given the new relationship between Plymouth State College and PCLP as set forth in its letter of July 8, 1993, we will assume that PCLP has an economic interest in lowering the proposed rates. Thus, PCLP's economic "bias" is apparent or at least will be assumed to exist and the contracts are unnecessary to establish the fact.

In regard to the issue of standing, RSA 541-A:17 provides that even in "contested cases" intervention shall be granted if the petitioner can demonstrate a "substantial interest" in the

outcome of the case. We assume that PCLP will not be acting out of philanthropy in its arrangements with Plymouth State College to operate the proposed cogeneration unit, and, therefore would grant the motion even if this were a "contested case" or an adjudicative proceeding. In light of the fact that this is a rate proceeding, however, and legislative in nature the threshold for "standing" is somewhat lower than that set forth in RSA 541-A:17. PSNH's motion to compel is, therefore, also denied, subject to the same renewal conditions set forth for NHEC above.

Our order will issue accordingly.

Concurring: August 23, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Plymouth Cogeneration Limited Partnership's motion for reconsideration of our order to compel the production of documents relative to its relationship with Plymouth State College is granted and it is not required to produce the requested information; and it is

FURTHER ORDERED, that the New Hampshire Electric Cooperative, Inc. and Public Service Company of New Hampshire may renew their motions to compel at any time during our investigation into the proposed rates should they believe the requested information has become relevant and can establish such relevancy with greater specificity than that set forth in their motions.

By order of the New Hampshire Public Utilities Commission this twenty-third day of August, 1993.

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NH.PUC*08/23/93*[75178]*78 NH PUC 461*Investigation into 1992 Energy Policy Act Requirements

[Go to End of 75178]

Re Investigation into 1992 Energy Policy Act Requirements

DE 93-071

Order No. 20,940

78 NH PUC 461

New Hampshire Public Utilities Commission

August 23, 1993

Report and Order Denying Motions for Rehearing filed by American Hydro, Inc., Energy Tactics, Inc. and Bio-Mass, Granite State Hydropower Association and Office of Consumer Advocate.

Appearances: David Saggau, Esq. on behalf of Granite State Electric Company; LeBoeuf, Lamb,

Leiby and MacRae by Scott Mueller, Esq. on behalf of Concord Electric Company and Exeter and Hampton Electric Company; William Bayard on behalf of New Hampshire Electric Cooperative, Inc.; George E. Sansoucy, on behalf of Waste Management of New Hampshire, Inc.; Kenneth C. Picton, Esq. on behalf of Connecticut Valley Electric Company, Inc.; Thomas B. Getz, Esq. on behalf of Public Service Company of New Hampshire; Kenneth A. Colburn on behalf of the Business and Industry Association of New Hampshire; James R. Anderson, Esq. on behalf of the Office of Consumer Advocate on behalf of residential ratepayers; Susan W. Chamberlin, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On April 16, 1993, the New Hampshire Public Utilities Commission (Commission) issued an order of notice, which was revised on May 7, 1993, regarding a new docket opened in conformance with the requirements of the federal Energy Policy Act of 1992. The Act required public utility commissions to complete a proceeding no later than October 24, 1993 which addresses the following four issues:

- (1) the potential for increases or decreases in the cost of capital for the purchasing utility, and any resulting increases or decreases in retail electric rates;
- (2) whether the use by nontraditional electricity producers of capital structures with more debt than utilities threatens reliability or provides these producers an unfair advantage over utilities;
- (3) whether to implement procedures for the advance approval or disapproval of specific long-term wholesale power purchases; and
- (4) whether to require as a condition for the approval of a long-term power purchase that there be reasonable assurance of fuel supply adequacy.

The Commission made Public Service Company of New Hampshire (PSNH), Connecticut Valley Electric Company, Inc. (CVEC), the New Hampshire Electric Cooperative, Inc. (NHEC), Concord Electric Company, Exeter and Hampton Electric Company (collectively the UNITIL Companies) and Granite State Electric Company (Granite State) mandatory parties to the proceeding. Other entities were offered an opportunity to move to intervene.

The Business and Industry Association of New Hampshire (BIA), Representative Amanda Merrill and Campaign for Ratepayers Rights were granted full intervention and Waste Management of New Hampshire, Inc. (Waste Management) was granted limited intervention. The Commission granted the motion for intervention and waiver of filing requirements by Campaign for Ratepayers Rights (CRR) and denied its request for PURPA compensation. *See* Report and Order Nos. 20,853 (May 25, 1993) and 20,868 (June 15, 1993).

On May 28, 1993 Staff served data requests on approximately 75 qualifying facilities (QFs) that sell energy and/or capacity on a long term power purchase arrangement to New Hampshire utilities. The requests were intended

to elicit a data base on which the parties and Staff could perform analyses that would enable them and the Commission to address the issues mandated by the Energy Policy Act.

On June 4, 1993, Bristol Energy Corporation, Bio-Energy Corporation, Bridgewater Power Company, Hemphill Power and Light Company, Pinetree Power, Inc., Pinetree Power - Tamworth, Inc., TIMCO, Inc., Whitefield Power and Light Company (collectively Bio-Mass) sought an extension of time in which to file objections and responses to Staff's data requests. After an expedited hearing, the Commission partially granted Bio-Mass' request for extension by giving Bio-Mass until June 11, 1993 to file any objections to data requests and providing that all data responses ordered by the Commission be filed no later than June 25, 1993. *See* Report and Order No. 20,863 (June 8, 1993).

SES Concord Company (now Wheelabrator Concord Company, L.P.) and SES Claremont L.P. (now Wheelabrator Claremont Company, L.P.) (collectively Wheelabrator), Granite State Hydropower Association (GSHA) and Energy Tactics, Inc. (Energy Tactics) filed similar objections on June 14, 1993. The Commission, on June 15, 1993, issued Order No. 20,871 which granted the requests of Wheelabrator, GSHA and Energy Tactics to have their late filed objections to data requests considered, denied GSHA's request for additional time to file a memorandum of law on behalf of its members and further ordered that any data responses ordered by the Commission be filed no later than June 25, 1993. On June 18, 1993, GSHA filed a motion for reconsideration of the Commission's denial of its request for time to file a memorandum of law, which the Commission denied in Order No. 20,895 (July 2, 1993).

Between June 11 and June 17, 1993, Bio-Mass, GSHA, Wheelabrator, Energy Tactics and American Hydro, Inc.- Peterborough (American Hydro) filed objections to Staff's data requests. On June 18, 1993, Staff responded to the objections and PSNH filed a motion to compel responses.

On June 15, 1993, Bio-Mass filed with the United States District Court for the District of New Hampshire a complaint for declaratory and injunctive relief, which was docketed as *Bristol Energy Corp. et al. v. New Hampshire Public Utilities Commission*, Civil No. 93-322-SD. Wheelabrator and certain other QFs intervened in the District Court action. Pursuant to an agreement reached in the District Court, the Commission agreed to refrain from issuance of any show cause order until August 6, 1993 or until the District Court issued a decision on the pleadings.

The Commission denied the objections of Bio-Mass, GSHA, Energy Tactics, Wheelabrator and American Hydro to Certain Data Requests Propounded by Staff. *See* Order No. 20,880 (June 22, 1993). On June 25, 1993, Wheelabrator filed a Motion for Rehearing of Order No. 20,880 to which Staff objected on June 30, 1993. On July 12, 1993, Bio-Mass filed a Motion for Rehearing of Order No. 20,880, joined by American Hydro and Energy Tactics. On July 14, 1993, Staff filed its objections to the Motions for Rehearing. On July 15, 1993, Bio-Mass filed a Supplement to its Motion.

On July 12, 1993 the Commission denied the Motions for Rehearing of Order No. 20,880 filed by Wheelabrator and granted protective treatment for all data responses which QFs submit under a request for protective treatment. *See* Order No. 20,906 (July 12, 1993). The Order did

not respond to the Motions for Rehearing of Order No. 20,880 which had been timely filed by Bio-Mass, Energy Tactics and American Hydro; this report and order will address those motions.

OCA, on July 19, 1993, filed a Motion for Rehearing of Order No. 20,906 regarding the confidentiality ruling. Staff on July 23, 1993 and Bio-Mass, Energy Tactics and American Hydro, on July 26, 1993, opposed OCA's Motion. This report and order will address OCA's Motion for Rehearing of the confidentiality provisions of Order No. 20,906.

On July 20, 1993, the District Court dismissed the Bio-Mass petition for lack of jurisdiction. *Bristol Energy Corporation, et al. v. State of New Hampshire Public Utilities Commission*, 1993 U.S. Dist. LEXIS 10012 at *4-*5 (D.N.H. July 20, 1993), *reconsideration denied*, (July 29, 1993). Bio-Mass filed an appeal of the dismissal in the First Circuit

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Court of Appeals, *Bristol Energy, et al. v. New Hampshire*, No. 931824.

On August 2, 1993, the Commission established August 6, 1993 as the new date by which QFs must respond to data requests, or appear at a show cause hearing on August 10, 1993 to demonstrate why their long term rate orders should not be rescinded or their long term contracts should not be reviewed. See Order No. 20,918 (August 23, 1993). Those dates were extended further by Order Nos. 20,924 (August 4, 1993) and 20,926 (August 9, 1993).

On August 4, 1993, certain members of GSHA filed Motions for Rehearing of Order Nos. 20,880 and 20,918 and on August 6, 1993 these same members filed a Motion for Rehearing of Order No. 20,924. This report and order will address those motions.

Bio-Mass, on August 4, 1993 appealed Commission Order Nos. 20,880 and 20,918 to the New Hampshire Supreme Court, which appeal was supplemented on August 9, 1993. *Appeal of Bristol Energy Corp.*, Case No. 93-517. The Attorney General objected to Bio-Mass' request for emergency relief by letter of August 6, 1993 and filed a response to the notice of appeal on August 10, 1993. Wheelabrator, on August 11, 1993 also appealed Commission Order Nos. 20,880 and 20,906 to the New Hampshire Supreme Court. The case is now pending before the Supreme Court.

Throughout the months of litigation over data requests, 35 QFs which chose not to challenge the data requests submitted responses to the data requests. These responses are now being analyzed by the Staff in accordance with the procedural schedule. Because of the delay resulting from the litigation brought by Bio-Mass, Energy Tactics, American Hydro, Wheelabrator and certain members of GSHA, the procedural schedule was amended by letter of the Executive Director.

II. POSITIONS OF PARTIES AND THE STAFF

A. Rehearing Request by Bio-Mass, American Hydro and Energy Tactics

1. Position of Bio-Mass, American Hydro and Energy Tactics

Bio-Mass, American Hydro and Energy Tactics argue that Commission Order No. 20,880 (June 30, 1993) does not provide adequate legal support for its conclusion that Staff is entitled to the information sought. Furthermore, Order No. 20,880 is unlawful because the Commission is

prohibited by RSA 362-A:2 from subjecting QFs to the inquiry contained in the data requests. RSA 362-A:2 is derived from federal law exempting QF's from federal and state laws and regulations pertaining to the rates or financial or organizational requirements of electric utilities. 16 U.S.C. § 824a-3(e)(1); 18 C.F.R. § 292.601(c). The FERC exemptions were intended to serve the important purpose of eliminating substantial disincentives to the development of QFs. The conditions contained in the Bio-Mass members' individual rate orders also fail to confer upon the Commission any authority to reach the books and records of QFs, because the rate orders only entitle the Commission to obtain information to the extent required to fulfill the Commission's statutory obligations. The Commission cannot require Bio-Mass or other QFs under rate orders to waive protections granted in RSA 363-A:2 as a condition precedent to granting them a rate order to which they are legally entitled.

Staff must meet their burden of demonstrating its need for the information, which Bio-Mass, Energy Tactics and American Hydro allege it has not done. Since there is an entity in New Hampshire which has applied for EWG status, Staff could seek information from that entity, as well as from other public information sources. Moreover, the information sought in this case is confidential and extremely sensitive. If disclosed, it would cause significant harm.

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2. Position of Staff

Staff believes the QFs do not allege any substantial arguments in the Motions for Rehearing which were not alleged in the original objections to Staff's data requests. Staff does not object to the request for specific Commission findings regarding the Commission's denial of objections raised by Bio-Mass *et al.*

The Public Utilities Regulatory Policies Act (PURPA) exempts QFs from certain disclosures, but not from all disclosures. While PURPA exemptions are broad, they are not so pervasive an exercise of Congressional power such as to preclude a state from retaining certain regulatory powers of review. Under RSA 362-A:2, QFs are not exempt from on-going Commission regulatory oversight. Under RSA 374:4, the Commission has the authority and duty to keep informed about the on-going financial and operational viability of projects. Staff's data requests seek information for identifying ownership and equity interest, project debt and equity, operating capacity, fuel supply information and an analysis of project expenses and revenue over time in order to meet the requirements of the Energy Policy Act.

In addition to and independent of its authority under the Energy Policy Act and its authority to keep informed of the status of all utilities, the Commission has authority for its investigation due to the express agreement of those QFs with long term rate orders.

B. Rehearing Requests of GSHA members

1. Position of GSHA members

Certain members of GSHA request rehearing of Order Nos. 20,880, 20,918 and 20,924, arguing that they are exempt under PURPA and LEEPA and therefore cannot be compelled to respond to the data requests. GSHA also argues that the Staff's data requests are an overt threat to force QFs into renegotiation of their contracts or modification of their rate orders and that the

data requests are in essence "rules" which should have been promulgated through the rulemaking process of RSA 541-A.

2. Position of Staff

Staff did not file a response to the Motions for Rehearing filed by GSHA members.

C. Rehearing Request of OCA

1. Position of OCA

OCA requests rehearing of the confidentiality provisions of Order No. 20,906, arguing that the federal Energy Policy Act created a new PURPA standard but did not alter the requirements that consumers have access to information in proceedings. OCA offered to review the information under a limited basis in the short term but suggested that ultimately the information should be made public to satisfy PURPA requirements. Finally, OCA argues that RSA 91-A:5 is preempted by PURPA.

2. Position of Bio-Mass, American Hydro and Energy Tactics

Bio-Mass, American Hydro and Energy Tactics opposed OCA's motion, arguing that PURPA does not grant OCA the right to the information and RSA 91-A still protects against the dissemination of confidential information.

3. Position of Staff

Staff opposed OCA's motion, arguing that PURPA does not require all discovery materials to be made public and that PURPA does not preempt RSA 91-A:5.

III. COMMISSION ANALYSIS

A. Introduction

The Commission finds that Bio-Mass, Energy Tactics and American Hydro do not raise any arguments in their Motions for

Rehearing which were not raised and denied in their original objections. Similarly, the Commission finds no new arguments advanced in GSHA's members' three Motions for Rehearing. Further, we are not persuaded by OCA's argument that we were in error in granting confidentiality. The Commission, therefore, denies the Motions for Rehearing of Order No. 20,880 filed by Bio-Mass, American Hydro and Energy Tactics on July 12, 1993, the Motions for Rehearing of Order Nos. 20,880, 20,918 and 20,924 filed by members of GSHA on August 4 and August 6, 1993 and the Motion for Rehearing filed of Order No. 20,906 filed by OCA on July 19, 1993. However in response to the concern that the Commission's prior orders may have been conclusory, we will provide detail to our analysis.

B. Bio-Mass, American Hydro and Energy Tactics' Motions for Rehearing of Order No. 20,880

The major point of the objections is that the Commission's authority to seek information from QFs is exempted by the terms of RSA 362-A:2 which are as extensive as the federal exemptions in the Public Utilities Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. §824a-3(e)(1).

Bio-Mass Motion for Rehearing, July 12, 1993 at 7.

The Commission agrees that the operation of RSA 362-A:2 affords QFs the full exemption established by Congress. For example, QFs are not subject to the Commission's authority to set rates (RSA 378:1 and 3), govern depreciation accounts (RSA 374:10) and regulate security issues (RSA 369:1). These exemptions, however, are not absolute and do not exempt QFs completely from the Commission's regulatory powers of review. *See Re Vicon Recovery Systems*, 572 A. 2d 1355 (Vt 1990) (state commission may review and reject the terms of a rate negotiated between a qualified facility and a utility). Under New Hampshire law, QFs are still public utilities and the Commission has the authority and the duty to keep informed about the financial and operational viability of projects on which the ratepayers rely for long term capacity and energy. RSA 362:2, RSA 374:4.

In addition to the regulatory authority the Commission retains to seek information from QFs, those QFs which have been granted long term rate orders expressly agreed to provide information upon request. *Re Small Energy Producers and Cogenerators*, 68 NHPUC 531, 544 (1983). The Order states, in pertinent part,

Any small power producer wishing to invoke the long term rate established by this Order must file with this Commission and the Company, a certificate signed by the duly authorized agent of the entity, attesting to the following: ...

(2) that the producer will abide by all applicable rules, regulations and orders of this Commission ...

(6) that the producer agrees to appear before this Commission with such documents as may be requested upon reasonable notice, to the extent required by this Commission to fulfill its statutory obligations ...

Id.

The QFs before the Commission in 1983 had a choice to make concerning their power sales. They could enter into individual negotiations with the purchasing utility, they could use short term purchasing arrangements or they could accept a long term rate under a Commission order. Accepting a long term rate order had certain benefits and drawbacks to be weighed in determining if this was the best option. QFs choosing a long term rate order were allowed to recover rates in excess of avoided costs in the early years of production which would be balanced with rates below avoided cost in the later years of the order. However, in exchange for this beneficial treatment, QFs did agree to submit documents should the Commission require them in exercise of its statutory duty. The Commission is now calling on QFs to uphold their end of the agreement.

It is inconsistent with these past sworn representations by the QFs for them now to claim that they cannot be required to waive protec-

tions granted to them through legislation. Even if the exemptions did extend to the requested information, and the Commission holds they do not, the QFs were free to waive those exemptions. "One is not obligated to exercise a right or privilege, even when collateral benefit to

society may be lost as a result." *Woodson v. U.S. Dept of Justice*, 770 F. 2d 1344 (DC Cir. 1993) (reversed on other grounds). The QFs did not have to choose to sell power under Commission rate orders, but having reaped the benefits from that choice they must now concede to the alleged drawback of having to provide the requested information.

The argument of Bio-Mass *et al.* that Staff bears the burden of demonstrating the necessity of the requested information is unpersuasive. As stated earlier, the Commission has the duty to keep informed and is authorized to request information to fulfill that duty. RSA 374:4. To the extent that there is public information available to answer Staff's requests, we encourage the QFs to provide it. It is not practical or desirable for the Commission to individually research each of the seventy-five QFs for public information when each QF has this information readily available. However, we will consider a QF's good faith attempt to meet our investigative needs with other pertinent information a QF wishes to provide.

Finally, Bio-Mass suggests that because there is a single exempt wholesale generator in New Hampshire, Staff no longer needs any information from QFs. We do not believe this argument is logical or statistically sound. The Commission cannot base its review of proposed standards in the 1992 Energy Policy Act on a sample of one. Furthermore, as the company in question is currently in bankruptcy and will not achieve EWG status until it emerges with an approved plan, we are uncertain as to the relevance of its financial information to other QFs. One hopes a bankrupt entity is not representative of the capital structure of all non-traditional energy producers in general. That possibility however, and the fact that some QFs encourage us to rely on the financial information of a bankrupt entity as a substitute for information regarding other QFs merely strengthens our need for the information requested.

C. GSHA's Motions for Rehearing of Order Nos. 20,880, 20,918 and 20,924

We note at the outset that GSHA's request for rehearing of Order No. 20,880 is grossly out of time, having been filed 38 days after the order's issuance, or 18 days beyond the 20 day statutory requirement. We do not agree with GSHA that the Federal Court action automatically stayed all procedural schedules in this docket. However, given the similarity of GSHA's arguments to those advanced by Wheelabrator and Bio-Mass *et al.*, and to avoid a procedural dispute in what is increasingly becoming a litigious maze, we will address the motion for rehearing on Order No. 20,880 (as well as the other two motions which were timely filed) on their merits.

The heart of GSHA's argument is that its member QFs are exempt under PURPA and LEEPA from such disclosure as called for in the data requests. This argument is precisely the argument advanced by Wheelabrator and the Bio-Mass group, presented both here and in the federal District Court. We see nothing to dissuade us from our view that the exemptions are not as broad as claimed by GSHA and that the data requests are a permissible inquiry.

In addition to the arguments that GSHA members are exempt from disclosure, GSHA also asserts that the Commission's order compelling data requests is akin to "rules" which should have been adopted in accordance with RSA 541-A. We do not agree. The Commission's authority to inquire into the status and ownership of QFs is pursuant to RSA 374:4 and its general duty to be aware of the operation of QFs on whom utilities and ultimately ratepayers rely. We reject the suggestion that we cannot make inquiries to QFs without first adopting rules.

Finally, GSHA argues that the Commission has denied GSHA members due process in its

efforts to "threaten" QFs to renegotiate their long term contracts. We find this argument equally unpersuasive. The Commission always has the obligation and the right to determine the reliability of power supply in the State. In addition, the Energy Policy Act of

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1992 imposes a further requirement that we explore this issue. Neither the Commissioners nor the Commission Staff are engaged in threats to QFs in this docket. We deny, therefore, the motions for rehearing of Order No. 20,880, 20,918 and 20,92420.

D. OCA's Motion for Rehearing of Order No. 20,906

OCA seeks rehearing of the confidentiality provisions of Order No. 20,906, arguing that PURPA authorizes such dissemination. We are not convinced that the PURPA requirements of making information available to consumers extends to public dissemination of the information requested in the data requests. OCA's assertion that ultimately the information may have to be made public leads us to reject the suggestion that OCA receive all confidential information subject to protection on an interim basis.

OCA also argues that RSA 91-A has been preempted. We do not agree. We are persuaded by the analysis regarding federal preemption of a state act contained within Staff's July 23, 1993 Response to OCA's Motion for Rehearing. Specifically, federal preemption is recognized in four instances: (1) the express terms of a statute leave no doubt of preemption, (2) a scheme of federal regulations leaves no room for state action, (3) the interest of the federal government is so dominant that preemption is presumed, and (4) there is an actual conflict between state and federal law. *Hillsborough County v. Automated Medical Laboratories*, 471 U.S. 707, 713 (1985). None of these instances exist in this case regarding the Right to Know law. We continue to believe that under RSA 91-A, it is appropriate to protect the sensitive information as done in Order No. 20,906.

This is an unusual case, given the number of QFs which are small operations without counsel or extensive personnel. We are seeking ways to carry out the mandate of the federal government without forcing costs on those companies. Ordering that QFs need not submit formal motions for confidential treatment was one of those attempts.

While we are sensitive to OCA's concern about the availability of data for review, we also recognize the intense opposition by the QFs to dissemination of the information called for in the data requests. In order to facilitate the completion of the mandated review by the federal Energy Policy Act, we struck a balance to protect the information from dissemination but still ensure full analysis by our Staff.

The Staff analysis, of course, will be made available to all parties to the docket. This means that while the OCA will not be entitled to review the data submitted by each particular QF, it will have full access to the compilation analysis developed by the Staff. Because we are not persuaded by the arguments advanced by OCA in its motion that we should have ruled otherwise, we will deny the request for rehearing of the confidentiality provisions of Order No. 20,906.

Our order will issue accordingly.

Concurring: August 23, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the Motions for Rehearing of Order No. 20,880 filed by American Hydro, Inc. - Peterborough, Energy Tactics, Inc. and the Bio-Mass group are denied; and it is

FURTHER ORDERED, that the Motions for Rehearing of Order Nos. 20,880, 20,918 and 20,924 filed by certain members of Granite State Hydropower Association are denied; and it is

FURTHER ORDERED, that the Motion for Rehearing of the confidentiality provisions of Order No. 20,906 filed by the Office of Consumer Advocate is denied.

By order of the New Hampshire Public Utilities Commission this twenty-third day of August, 1993.

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NH.PUC*08/24/93*[75179]*78 NH PUC 468*New England Telephone and Telegraph Company

[Go to End of 75179]

Re New England Telephone and Telegraph Company

Additional respondent: Public Service Company of New Hampshire

DE 93-147

Order No. 20,941

78 NH PUC 468

New Hampshire Public Utilities Commission

August 24, 1993

Order *Nisi* Granting Authorization for Aerial Electric and Telephone Crossing of the North River in the Town of Epping, New Hampshire.

BY THE COMMISSION:

ORDER

On August 4, 1993 New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking license under RSA 371:17 to construct, operate and maintain an aerial telephone crossing of the North River in the Town of Epping, New Hampshire; and

WHEREAS, on August 17, 1993 Public Service Company of New Hampshire (PSNH) petitioned the Commission to become a joint petitioner for a license with New England Telephone for a proposed aerial crossing of the North River; and

WHEREAS, the proposed telephone and electric aerial crossings of the North River are required to provide service to Mr. David Reinhold's property; and

WHEREAS, the aerial crossing will require the placement of two jointly owned poles, NET # 65B/7 and 65B/8 (PSNH # 56A/7 and 56A/8) as depicted on NET drawing 44-9 and PSNH drawing 7649-382, on file with the Commission; and

WHEREAS, NET drawing 44-9 reflects private right of way has been obtained for the placement of poles and aerial facilities; and

WHEREAS, said aerial crossings will be located approximately 2500 feet southeast of the intersection of State Highway 155 and 125, in the Town of Epping; and

WHEREAS, the location, construction and design of the crossings the Petitioner's are seeking to license are specifically identified in the petitions; and

WHEREAS, the petitioners represent and Staff has verified that the crossings will be constructed in accordance with all clearances and other requirements of the 1993 National Electrical Safety Code; and

WHEREAS, the definition of "Public Waters" contained in the limited purposes of RSA 371:17 includes "all ponds of more than ten acres, tidewater bodies, and such streams or portions thereof as the Commission may prescribe"; and

WHEREAS, the Commission prescribes the proposed crossings to be over and across Public Waters; and

WHEREAS, the Commission finds such water crossings necessary for the Petitioners to meet their obligations to serve the proposed customer within their authorized franchise area, thus being in the public good; and

WHEREAS, the public should be offered the opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than September 10, 1993; and it is

FURTHER ORDERED, that the Petitioners effect said notification by: (1) causing an attested copy of this order to be published no later than August 27, 1993, once in a newspaper having general circulation in the area where the crossings are located; (2) providing, pursuant to RSA 541-A:22, a copy of this order to the Epping Town Clerk, by First Class U.S. mail, postmarked on or before August 27, 1993; and (3) documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before September 10, 1993; and it is

FURTHER ORDERED *NISI*, that authority be, and hereby is granted, pursuant to RSA 371:17 *et seq.* to New England Telephone and Telegraph Company, 24 Prescott Road, Laconia, NH 03246 and to Public Service Company of New Hampshire, P.O. Box 330, Manchester, NH 03105 to construct and maintain the aforementioned aerial crossings over the North River in the Town of Epping, New Hampshire effective 20 days from the date of this order unless the Commission otherwise

directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all construction conform to the requirements of the National Electrical Safety Code and other applicable codes mandated by the Town of Epping.

By order of the New Hampshire Public Utilities Commission this 24th day of August, 1993.

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NH.PUC*08/24/93*[75180]*78 NH PUC 469*Appointment of Commission Staff to Administer Underground Utilities Damage Prevention Program

[Go to End of 75180]

Re Appointment of Commission Staff to Administer Underground Utilities Damage Prevention Program

DE 93-150
Order No. 20,942
78 NH PUC 469

New Hampshire Public Utilities Commission

August 24, 1993

Order Designating Specific Authority to Richard G. Marini, P.E. Under Chapter Puc 800.

BY THE COMMISSION:

ORDER

WHEREAS, the Commission recognizes the importance of the Underground Utilities Damage Prevention Program, Chapter Puc 800; and

WHEREAS, the Commission finds advisable the appointment of a Commission Staff member to bring and resolve, if possible, complaints against alleged violators of Chapter Puc 800; and

WHEREAS, RSA 374:55, V authorizes the Commission to designate such a Staff member within the Division of Safety; now therefore, it is hereby

ORDERED, that Richard G. Marini, P.E., is appointed as the designated Commission Staff to exercise the authority granted in the following specific sections of Chapter Puc 800:

- Puc 803.02 to consider and resolve complaints,
- Puc 804.01(d) to decide whether a situation is or was deemed an emergency situation,
- Puc 805.01(1) to issue a written Notice of Probable Violation,

Puc 805.03 to issue a Notice of Violation, and

Puc 805.06(a) to assess a civil penalty using the factors listed in 805.06(b).

BY ORDER of the Public Utilities Commission of New Hampshire this 24th day of August, 1993.

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NH.PUC*08/25/93*[75181]*78 NH PUC 469*AT&T Communications of New Hampshire, Inc.

[Go to End of 75181]

Re AT&T Communications of New Hampshire, Inc.

DE 93-146

Order No. 20,943

78 NH PUC 469

New Hampshire Public Utilities Commission

August 25, 1993

Order *Nisi* Approving A Change in Name For AT&T Plan D Service and Revisions To This Service.

BY THE COMMISSION:

ORDER

On August 2, 1993, AT&T Communications of New Hampshire, Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to change the name of AT&T Plan D Service to AT&T CustomNet Service; and

WHEREAS, AT&T filed these changes with the Federal Communications Commission on July 15, 1993; and

WHEREAS, this filing also included revisions to CustomNet Service calls which will now include Calling Card Calls and a Volume Discount of 3% when the Total Usage Charge falls between \$25 and \$200 on the total net monthly charges for intrastate and interstate Direct Dialed Calls billed under CustomNet Service; and

WHEREAS, the proposed tariff changes expand the choice of telephone services to New

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Hampshire customers, thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition may submit their comments or file a written request for a hearing on this matter before the Commission no later than September 22, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than September 7, 1993 and it is to be documented by affidavit filed with this office on or before September 22, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of PUC No. 1 - are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Table of Contents,	11th Revised Page 1
	1st Revised Page 16
Section 14,	1st Revised Page 1
	1st Revised Page 2
	1st Revised Page 3
	1st Revised Page 4
	2nd Revised Page 5
	1st Revised Page 6
	2nd Revised Page 7
	2nd Revised Page 8;

and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective September 24, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of August, 1993.

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NH.PUC*08/25/93*[75182]*78 NH PUC 470*Members' Long Distance Advantage

[Go to End of 75182]

Re Members' Long Distance Advantage

DE 93-148
Order No. 20,944
78 NH PUC 470

New Hampshire Public Utilities Commission
August 25, 1993

Order *Nisi* Approving The Addition Of Business Services and Amendments To the Existing Tariff.

BY THE COMMISSION:

ORDER

On August 6, 1993, Members' Long Distance Advantage (MLDA), a reseller of intrastate long distance telephone service, filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to add Business Services and amend the existing tariff; and

WHEREAS, the proposed Business Services include Standard 1+, Dedicated Service, 800 Service, Dedicated 800 Service and Calling Card Service that MLDA seeks to make available to commercial enterprises within the State of New Hampshire; and

WHEREAS, charges will be based on usage and various service options offered under Business Services; and

WHEREAS, MLDA proposed the filing become effective October 5, 1993; and

WHEREAS, the proposed tariff changes expand the choice of telephone service to New Hampshire customers, thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, pursuant to Puc 1601.05(b)(2), "when more than 50% of the pages of a complete tariff are effected in a single filing a complete new tariff shall be filed"; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby;

ORDERED, that all persons interested in responding to this petition be notified that they

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may submit their comments or file a written request for a hearing on this matter before the Commission no later than September 22, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, MLDA cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than September 7, 1993 and it is to be documented by affidavit filed with this office on or before September 22, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of MLDA Tariff No. 1 - are approved:

1st Revised Title Page

1st Revised Pages 1 through 17

Original Pages 18 through 34;

and it is

FURTHER ORDERED, that MLDA file a complete new tariff in compliance with Puc 1601.05(b)(2); no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective September 24, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-fifth day of August, 1993.

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NH.PUC*08/25/93*[75183]*78 NH PUC 471*Public Service Company of New Hampshire

[Go to End of 75183]

Re Public Service Company of New Hampshire

DR 93-083

Order No. 20,945

78 NH PUC 471

New Hampshire Public Utilities Commission

August 25, 1993

Order Approving Settlement of Sawmill Deferral Rate SGD.

Appearances: Thomas Getz, Esquire, for Public Service Company of New Hampshire; Kenneth Traum for the Office of Consumer Advocate; Amy Ignatius, Esquire, for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On April 30, 1993, Public Service Company of New Hampshire (PSNH) filed testimony and exhibits supporting a new tariff rate, Sawmill Generation Deferral Service Rate SGD, effective June 1, 1993. In conjunction with Rate SGD, PSNH filed a special contract, NHPUC-88, between PSNH and New Kearsarge Corporation (New Kearsarge) effective June 1, 1993, and lasting for a term of five (5) years in accordance with the terms proposed in Rate SGD.

The New Hampshire Public Utilities Commission (Commission) issued Order No. 20,852 on May 25, 1993 suspending the proposed Rate SGD tariff pages and scheduling a prehearing conference for June 15, 1993. Order No. 20,852 also temporarily approved Special Contract NHPUC-88 pending final resolution of the Commission's analysis of Rate SGD. At the June 15, 1993 prehearing conference, a procedural schedule was stipulated to by PSNH and the Staff of the Commission (Staff) and approved by the Commission on June 21, 1993 (Order No. 20,875). A hearing on the merits was scheduled for August 12, 1993. No parties filed for intervention

during the proceeding.

On July 1, 1993, Staff promulgated data requests concerning PSNH's proposal and testimony to which PSNH responded on July 9 and July 12, 1993. On July 27, 1993, Staff filed the testimony of Thomas C. Frantz, Electric

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Utility Analyst. Rebuttal testimony was filed by PSNH's witness, Gary A. Long, Director of Marketing, on August 9, 1993.

At the hearing on August 12, 1993, the Commission heard statements in support of Rate SGD from a number of individuals representing the sawmill industry. After comments from the public, a tentative Stipulation Agreement (Stipulation) between PSNH and Staff resolving all disputes was presented by PSNH contingent upon further review by Staff. A letter to the Commission from PSNH, received on August 17, 1993, affirmed that Staff had no changes to the Stipulation as presented at the hearing. The Office of Consumer Advocate (OCA) did not object to the Stipulation, nor did it agree to support it.

II. POSITIONS OF THE PARTIES AND STAFF

A. *Public Service Company of New Hampshire*

PSNH filed testimony and technical statements supporting a seventy-five percent (75%) discount to the applicable tariff demand charge of qualifying sawmill customers or other similar customers whose applications are accepted by PSNH for approval under Rate SGD. The intent of Rate SGD is to defer the installation of customer generation equipment by sawmills or other qualifying customers who, PSNH contends based on its research, are particularly vulnerable to diesel powered self-generation or cogeneration. PSNH believes a rider to the applicable tariff is more appropriate than filing numerous special contracts due to the similar load characteristics of the sawmill customers and the fact that many may compete against each other in the same product markets. By offering the discount, PSNH believes it will be able to retain most of the revenue from those sawmill customers who, absent the discount, would pursue alternatives. PSNH states that the proposed special rate rider to the tariff will enhance the financial status of PSNH, will reduce the sawmills' overall bills resulting in the avoidance of costly capital investments, thereby creating savings that could lead to increased production and employment, and will benefit PSNH's other customers. PSNH's other customers benefit during the Fixed Rate Period by a reduction in the Fuel and Purchased Power Adjustment Rate (FPPAC). After the Fixed Rate Period the benefits of the retained load will flow completely to customers through standard ratemaking practices.

PSNH emphasizes that Rate SGD contains provisions allowing PSNH to obtain data from customers to confirm that self-generation or cogeneration is a viable option; therefore, Rate SGD will minimize the number of "free riders" and increase the net revenue generated by this group of customers. Moreover, based on its research and analysis, PSNH believes Rate SGD will prevent a decrease in revenue by as much as \$3 million to \$4 million over the five-year term of Rate SGD from what it would have been absent its Rate SGD proposal. PSNH estimates that the seventy-five percent discount from the applicable tariff demand charge will result in an overall rate reduction of twenty-two percent on average for twenty-three sawmills it considers

particularly vulnerable to self-generation or cogeneration. The demand discount results in a decrease from 11.27 cents per kWh to 8.80 cents per kWh. New Kearsarge would see a slightly larger discount, twenty-six percent, under either Special Contract NHPUC-88 or Rate SGD.

During the term of Rate SGD, PSNH intends to promote energy efficient technologies to Rate SGD customers. At the end of the five-year term of the Service Agreement, PSNH's standard tariff rates would apply to Rate SGD customers unless circumstances at the time necessitate an alternative.

B. Staff

Staff's pre-filed testimony did not dispute PSNH's position that Rate SGD is intended to retain load that otherwise would be lost to self-generation or cogeneration. Staff agreed with PSNH that Rate SGD is not an economic development or business retention filing,¹⁽⁶⁴⁾ but questioned PSNH's assertion that the filing will generate additional jobs or capital spending. Staff's criticism focused on

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whether PSNH's filing is supported by cost studies and whether the rate is unduly discriminatory. Staff stated that Rate SGD, though a value-of-service based proposal, could be in the public interest if the level of the rate covers short-run as well as long-run incremental costs and it results in lower rates to PSNH's other customers. Staff also emphasized that the rate discount should not harm potential competitors, a concern the Commission made clear in its "Checklist" on Economic Development and Business Retention Special Contracts.

Staff pointed out that under the Fixed Rate Period of the Rate Agreement, PSNH has little incentive to discount rates to retain customers unless it is reasonably certain those customers would leave the system absent some form of discounted rate treatment. In Staff's opinion, Rate SGD is vague regarding Availability and gives PSNH broad discretion as to who qualifies for the discounted rate. The result is that PSNH in its attempts to minimize "free riders" has made the rate rider unduly discriminatory. Staff recommended a definition of Availability that removes the ambiguity contained in the tariff language. Staff also recommended that the discount be more closely tied to PSNH's incremental costs. Staff did not challenge PSNH's projection of its avoided costs or that the rate discount covers its incremental costs as contained in its most recent Integrated Resource Plan (IRP), but suggested that those costs could change appreciably by year 4 or year 5. If PSNH's capacity situation does change so that a discount based on surplus capacity is no longer warranted, Staff believes that Rate SGD customers should be willing to move to their alternatives or receive a lesser valued service, such as interruptible service.

III. STIPULATION

At the hearing PSNH presented a tentative Stipulation between Staff and PSNH. The Stipulation (Exhibit-4)

² is embodied completely by the revised tariff pages for Rate SGD as presented at the hearing. The Stipulation contains language that clarifies the Availability and Definitions sections of the tariff and specifies that any customer applying for service under Rate SGD provide PSNH

with an affidavit attesting that

no known permitting, zoning, environmental or financial barriers exist which would preclude the installation of self-generation by the customer.

The Stipulation also adds a Minimum Bill section that ties the discount to PSNH's short-term avoided costs as approved by the Commission.

IV. COMMISSION ANALYSIS

We have reviewed the record in this proceeding and find that the Stipulation is in the public interest. It is uncontroverted that the retention of load coupled with the present capacity situation and low marginal costs of PSNH make this filing beneficial for PSNH, its eligible customers and PSNH's other customers. Rate SGD as embodied in the Stipulation resolves many of the legitimate concerns of Staff concerning availability and the potential for significant swings in incremental costs over time. By ensuring that no Rate SGD customer will pay for service below PSNH's short-term avoided costs, Rate SGD will send price signals to sawmill customers of the changing cost of power and help to prevent potential cross-subsidies. We will direct PSNH to keep the Commission apprised annually of the number of customers receiving service under Rate SGD, their kWh usage and revenue, and what energy efficiency measures Rate SGD customers have undertaken. Included in the annual overview should be the number of customers denied Rate SGD service by PSNH.

Finally, the record is unclear about whether New Kearsarge would qualify under Rate SGD as stipulated to by Staff and PSNH. We will, therefore, direct PSNH to file a position paper addressing New Kearsarge's status under the Stipulation.

Our order will issue accordingly.

Concurring: August 25, 1993

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ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that the Stipulation embodied by the tariff pages for Rate SGD be accepted for effect on and after September 1, 1993; and it is

FURTHER ORDERED, that PSNH file a technical statement or position paper on or before September 1, 1993 describing whether New Kearsarge is eligible for Rate SGD as proposed in the Stipulation; and it is

FURTHER ORDERED, that Special Contract NHPUC-88 remain in effect until the Commission can determine whether New Kearsarge is eligible for Rate SGD as amended by the Stipulation; and it is

FURTHER ORDERED, that PSNH file on or before August 31, 1993, tariff pages in compliance with this order.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of August, 1993.

FOOTNOTES

¹ Although the Staff and PSNH acknowledge that the immediate proceeding is not an economic development filing, *per se*, those interested in the distinction between this filing, a load retention filing, and filings for economic development and business retention should refer to Report and Order No. 20,633, October 19, 1992, in docket DR 91-172, the Generic Discounted Rates Docket. Additional information is contained in Order No. 20,882, issued June 23, 1993, Supplemental Order Approving Final Checklist for Economic Development and Business Retention Special Contracts.

² The Stipulation is appended to the Report and Order.

NHPUC NO. 33 - ELECTRICITY PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
1st Revised Page 70 — In Lieu of Original Page 70 Rate SGD

SAWMILL GENERATION DEFERRAL SERVICE RATE SGD

AVAILABILITY

Subject to the Terms and Conditions of the Tariff of which it is a part, this rate is available for electric service to Sawmills as defined herein. Service under this rate must be taken in conjunction with service under either General Service Rate G, Primary General Service Rate GV or Large General Service Rate LG and in accordance with the terms and conditions therein as now or hereafter effective except as specifically provided otherwise in this rate. Service hereunder is available only to those customers whose primary or secondary three-digit Standard Industrial Classification Code is 242. Service hereunder is available to those customers who, in the Company's determination, could install and utilize self-generation or cogeneration equipment as a viable and economic alternative to purchasing all or a significant part of their electric requirements from the Company in the absence of receiving service under this rate.

Customers receiving station service as a small power producer are not eligible for service under this rate. Service hereunder cannot be taken in conjunction with service under a Special Contract, except for Special Contracts for line extensions.

DEFINITIONS

Sawmill: A plant where wood is processed, typically where logs are machine-cut into lumber. A sawmill can be all or a portion of the customer's entire operation. For the purpose of eligibility under this rate, the customer's primary business shall consist of wood products.

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Standard Rate: The tariff rate, either General Service Rate G, Primary General Service Rate GV or Large General Service Rate LG, under which the customer is rendered service.

ECONOMIC ANALYSIS OF CUSTOMER GENERATION

As a condition of service under this rate, the Company will analyze whether self-generation or cogeneration is a viable alternative to purchasing all or part of their electric requirements from

the Company. The customer may be required to provide information to the Company to perform such analysis

Issued: Issued by: David H. Boguslawski Title: Vice President-Marketing Effective: and Administrative Services

NHPUC NO. 33 — ELECTRICITY PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

1st Revised Page 71 — In Lieu of Original Page 71 Rate SGD

to the extent that the Company lacks any information necessary to reach a conclusion on the economics of generation. The customer must provide an affidavit to the Company attesting that no known permitting, zoning, environmental or financial barriers exist which would preclude the installation of self-generation by the customer.

Service under this rate will be denied if the Company's analysis shows a simple pre-tax payback in excess of five years for the total cost of generation.

The Company will not disclose any information provided by the customer without prior consent of the customer or unless directed by the New Hampshire Public Utilities Commission or a court of competent jurisdiction.

DEMAND CHARGE DISCOUNT

The customer will be billed for electric service under the applicable Standard Rate. A percent discount equal to seventy-five (75%) of the demand charge(s) specified under the Standard Rate will be applied to each monthly bill.

MINIMUM BILL

The minimum bill under this rate shall be equal to what the bill amount would be if the customer were charged rates equal to the Company's short-term avoided cost rates paid to Small Power Producers as approved by the Commission from time to time.

SERVICE AGREEMENT AND TERM

The customer must sign a service agreement to receive service under this rate. Service shall be for a limited period beginning on the Effective Date specified in the service agreement and terminating after a five-year period.

Issued: Issued by: David H. Boguslawski Effective: Title: Vice President-Marketing Effective:Title: and Administrative Services

NHPUC NO. 33 — ELECTRICITY PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE 1st Revised Page 72 — In Lieu of Original Page 72 Rate SGD

PSNH AS SOLE SUPPLIER

As part of the service agreement the customer will agree to purchase all of its electricity requirements from the Company for a period of five (5) years from the Effective Date of the service agreement.

In the event the customer displaces any of its purchases of electricity from the Company with an alternative source prior to the expiration of the service agreement, PSNH reserves the right to

immediately terminate the service agreement without notice. Upon termination of this service by the Company for a customer's violation of this section, the Company may bill and the customer is obligated to pay the difference between bill amounts that would have been rendered under the applicable Standard

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Rate absent this rate, and the bill amounts determined under the Standard Rate in conjunction with this rate beginning from the Effective Date of the service agreement until termination of the service agreement by the Company.

Issued: Issued by: David H. Boguslawski Effective: Title: Vice President- Marketing and Administrative Services

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NH.PUC*08/26/93*[75184]*78 NH PUC 476*New Hampshire Electric Cooperative, Inc.

[Go to End of 75184]

Re New Hampshire Electric Cooperative, Inc.

DR 93-124

Order No. 20,946

78 NH PUC 476

New Hampshire Public Utilities Commission

August 26, 1993

BY THE COMMISSION:

New Hampshire Electric Cooperative, Inc., (NHEC) having filed with the New Hampshire Public Utilities Commission (Commission) on July 30, 1993, petitions for permanent and temporary rates effective October 1, 1993 and NHPUC Tariff No. 16 -

New Hampshire Electric Cooperative, Inc. for Commission approval; and

WHEREAS, that pursuant to RSA 378:28, NHEC proposes a 1.44% base rate increase and changes to its current rate design; it is hereby

ORDERED, that pursuant to N.H. Admin. Rules Puc 203.05, a prehearing conference be held to address procedural and other matters relative to the request for a permanent rate increase, before the Commission at its offices in Concord, 8 Old Suncook Road, at 10:00 a.m. on September 15, 1993; and it is

FURTHER ORDERED, that a temporary rate hearing be held, pursuant to RSA 378:27, before the Commission at 10:00 a.m. on September 15, 1993; and it is

FURTHER ORDERED, that pursuant to the notice requirements set forth in N.H. Admin.

Puc 203.01, the petitioner notify all persons desiring to be heard at said prehearing conference and/or said temporary rate hearing by causing an attested copy of this order of notice and a summary of its proposed rate change to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than September 1, 1993, and is to be documented by affidavit filed with this office on or before September 15, 1993; and it is

FURTHER ORDERED, that pursuant to Puc 203.02, any party seeking to intervene in the proceeding shall submit a motion to intervene with a copy to the petitioner and Commission on or before September 13, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 378:6, the effective date of NHPUC Tariff No. 16 - New Hampshire Electric Cooperative, Inc. is suspended pending completion of the Commission's investigation.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of August, 1993.

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NH.PUC*08/26/93*[75185]*78 NH PUC 476*Investigation into 1992 Energy Policy Act Requirements

[Go to End of 75185]

Re Investigation into 1992 Energy Policy Act Requirements

DE 93-071

Order No. 20,947

78 NH PUC 476

New Hampshire Public Utilities Commission

August 26, 1993

Order Suspending Procedural Schedule.

BY THE COMMISSION:

On May 28, 1993, pursuant to the procedural schedule developed at the May 18, 1993 prehearing conference and adopted by the Commission on May 25, 1993 by Report and Order No. 20,853, Staff served data requests on 80 entities that provide energy and/or capacity to franchised utilities in New Hampshire under long term rate orders or contracts.

WHEREAS, on June 15, 1993, Bristol Energy Corporation, Bio-Energy Corporation, Bridgewater Power Company, L.P., Hemphill Power and Light Company, Pinetree Power Inc., Pinetree Power-Tamworth, Inc., TIMCO, Inc. and Whitefield Power and Light Company, (referred to collectively as "Bio-Mass") filed

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with the United States District Court for the District of New Hampshire a complaint for declaratory and injunctive relief. *Bristol Energy Corp. et al. v. New Hampshire Public Utilities Commission*, Civil No. 93-322-SD. Wheelabrator and certain other qualifying facilities ("QFs") intervened in the District Court action; and

WHEREAS, on July 20, 1993, the District Court dismissed the Bio- Mass petition for lack of subject matter jurisdiction. *Bristol Energy Corp. et al. v. New Hampshire Public Utilities Commission*, 1993 U.S. Dist. LEXIS 10012 at *4-*5 (D.N.H. July 20, 1993), *reconsideration denied*, (July 29, 1993); and

WHEREAS, on August 2, 1993, Bio-Mass filed for Injunctive Relief Pending Appeal in the United States Court of Appeals for the First Circuit, Docket No. 93 1824. Certain other QFs filed similar requests for injunctive relief; and

WHEREAS, on August 19, 1993 the United States Court of Appeals issued an order enjoining the Public Utilities Commission from requiring the petitioning QFs to respond to the remaining unanswered May 28, 1993 data requests pending the resolution of the appeals; it is hereby

ORDERED, that the procedural schedule in the above captioned case is suspended until further notice.

By order of the New Hampshire Public Utilities Commission this twenty-sixth day of August, 1993.

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NH.PUC*08/30/93*[75186]*78 NH PUC 477*Granite State Electric Company

[Go to End of 75186]

Re Granite State Electric Company

DF 92-219

Order No. 20,948

78 NH PUC 477

New Hampshire Public Utilities Commission

August 30, 1993

Order Approving 30-Year Note.

BY THE COMMISSION:

WHEREAS, Granite State Electric Company (GSEC or the Company) seeks a supplemental order authorizing it to enter into a \$5 million, 30-year, 7.37% note; and

WHEREAS, the Commission approved the terms and conditions of a Private Placement

Memorandum in Order No. 20,818 for the issuance of a \$5 million note with a maturity date of either 2008 or 2013 at an interest rate not to exceed 10 percent; and

WHEREAS, the Commission believes that this note represents an opportunity to lock in long-term debt at an historically low interest rate for a longer period than contemplated in the originally filed Private Placement Memorandum; and

WHEREAS, the Commission, after consideration, is satisfied that this note will be consistent with the public good; it is hereby

ORDERED, that the Company is authorized to issue this \$5 million, 30-year, 7.37% note; and it is

FURTHER ORDERED, that on January 1 and July 1 of each year, the Company shall file with this Commission a detailed statement, duly sworn by its Treasurer, showing the disposition of the proceeds of such note until the entire proceeds shall have been fully accounted for.

By order of the New Hampshire Public Utilities Commission this 30th day of August, 1993.

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NH.PUC*08/31/93*[75187]*78 NH PUC 478*New Hampshire Electric Cooperative, Inc.

[Go to End of 75187]

Re New Hampshire Electric Cooperative, Inc.

DF 93-001

Order No. 20,949

78 NH PUC 478

New Hampshire Public Utilities Commission

August 31, 1993

Report and Order Instructing NHEC Management to Identify, Index and Preserve All Records Pertinent to NHEC's Decision to Invest in Seabrook.

Appearances: Broderick and Dean, by Mark W. Dean, Esq. on behalf of New Hampshire Electric Cooperative, Inc.; Michael W. Holmes, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; Amy L. Ignatius, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission) opened docket DF 93-001 to determine what, if any, action the Commission should take with regard to assessing the

valuation of the 2.17391% ownership share held by the New Hampshire Electric Cooperative Inc. (NHEC) in the Seabrook Nuclear Generating Facility (Seabrook) prior to receipt of any request by NHEC to recover any associated costs in retail rates. The docket was opened in accordance with Report and Order No. 20,618 (October 5, 1992) which required such determination as a condition of the Commission's approval of NHEC's rate case and debt reorganization emerging from bankruptcy, DR 92-009.

By order of notice dated January 6, 1993, published January 29, 1993, the Commission set a hearing for March 16, 1993. At that hearing, NHEC, the Office of Consumer Advocate (OCA) and the Commission Staff (Staff) addressed the merits of the Commission's authority to engage in a prudence review of NHEC's share of Seabrook outside of a rate case. NHEC asked that the parties and Staff file briefs on jurisdictional matters before continuing with valuation questions on the merits. The Commission granted the request and set a briefing schedule which was subsequently modified.

On June 7, 1993 NHEC filed its brief on jurisdiction; on July 6 and July 7, OCA and the Staff responded and on July 20, 1993, NHEC filed a reply brief.

II. POSITIONS OF THE PARTIES AND STAFF

A. *New Hampshire Electric Cooperative, Inc.*

NHEC argued that the Commission lacks the authority to engage in a prudence evaluation outside of a rate case as the power to evaluate prudence is implicitly within the Commission's statutory power to set rates. Because NHEC is not seeking inclusion of Seabrook costs in its retail rates and will not be, at least until the expiration of the Sellback Agreement between NHEC and Public Service Company of New Hampshire (PSNH) in 2006, the only thing that should be done at this time is the preservation and cataloging of records. Those records in turn will be used in a ratesetting proceeding and prudence evaluation proceeding if and when NHEC seeks inclusion of Seabrook in its retail rates.

B. *Office of Consumer Advocate*

OCA argued that a value for NHEC's share of Seabrook must be established in order to determine for rate design purposes, if not for other purposes, that there is "responsible and cost efficient allocation of the NHEC investment in Seabrook." OCA found authority (and perhaps an obligation) for the Commission to undertake such an analysis at this time.

C. *Commission Staff*

Staff asserted that the Commission has the authority to enter into a prudence evaluation of NHEC's decision to invest in Seabrook, though agreed that the Commission must await a ratesetting proceeding to evaluate whether

Seabrook costs should be included in retail rates. In addition, Staff argued there are practical considerations (such as missing records and increasingly distant recollections) which make a full investigation at this time appropriate. Staff suggested that at a minimum the Commission should order that statements be taken from people involved in the decision to invest in Seabrook and all

records should be preserved and catalogued for more detailed proceedings in the future.

III. COMMISSION ANALYSIS

Upon review of the briefs submitted in this matter, we do not find it appropriate to engage in a prudence evaluation of the decision by NHEC management to invest in Seabrook at this time. It would not be an appropriate use of our time, that of NHEC, OCA or Commission Staff to take statements, depositions or otherwise build a record regarding Seabrook if we are not currently faced with the inclusion of Seabrook costs in retail rates. NHEC may never seek to include Seabrook costs in retail rates, in which case a prudence inquiry may be unnecessary.

We recognize, however, that there is a growing concern that if and when such an evaluation is undertaken, the information may be hard to reconstruct. For that reason, we will accept the Staff's alternate proposal, agreed to by NHEC, for the identification, indexing and preservation of critical documents. We will order, therefore, that all documents regarding the decision to invest in Seabrook, whether now kept in NHEC offices or kept privately in the hands of current or former NHEC personnel, should be placed in secure storage at NHEC. The materials should be indexed, properly marked and segregated from other documents. We encourage NHEC to work closely with OCA and the Staff in the identification and indexing of such documents and that NHEC report to us within 30 days its progress in developing a plan for that is acceptable to OCA and the Staff. If NHEC, OCA and the Staff are unable to agree on a plan for identification, indexing and storage of documents, NHEC should so inform us.

Our order will issue accordingly.

Concurring: August 31, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the Commission will not engage in a prudence evaluation of NHEC's decision to invest in Seabrook at this time; and it is

FURTHER ORDERED, that New Hampshire Electric Cooperative, Inc. (NHEC) management identify, index and preserve all records pertinent to NHEC's decision to invest in Seabrook Nuclear Generating Facility for use in a prudence evaluation in future years; and it is

FURTHER ORDERED, that NHEC, the Office of Consumer Advocate (OCA) and the Commission Staff develop a plan for the proper identification, indexing and storage of documents and that NHEC report to the Commission within thirty days its progress in developing a plan acceptable to OCA and the Commission Staff.

By order of the New Hampshire Public Utilities Commission this thirty-first day of August, 1993.

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NH.PUC*09/07/93*[75188]*78 NH PUC 479*Generic Investigation into Natural Gas Transportation Service and Rates

[Go to End of 75188]

Re Generic Investigation into Natural Gas Transportation Service and Rates

DE 91-149
Order No. 20,950
78 NH PUC 479

New Hampshire Public Utilities Commission

September 7, 1993

Report and Order Requiring Transportation Tariffs and Adopting "Trial Rates" on an Interim Basis.

Appearances: Ransmeier & Spellman by Dom S. D'Ambruoso, Esq. and John T. Alexander, Esq. for Anheuser-Busch Companies, Inc.; McLane, Graf, Raulerson and Middleton by Jacqueline L. Killgore, Esq. for

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EnergyNorth Natural Gas, Inc.; LeBoeuf, Lamb, Leiby & MacRae by Paul K. Connolly, Esq. and Meabh Purcell, Esq. for Northern Utilities, Inc.; Devine, Millimet and Branch by Frederick J. Coolbroth, Esq. and Anu R. Mather, Esq. for Sprague Energy Corp.; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Business and Industry Association by Kenneth A. Colburn; James R. Anderson, Esq. of Office of Consumer Advocate for residential ratepayers; Amy L. Ignatius, Esq. for the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission) issued an Order of Notice on November 20, 1991, pursuant to a petition by Anheuser-Busch Companies, Inc. (Anheuser-Busch) for the purpose of commencing a generic investigation into natural gas transportation service and rates. The Commission granted intervention to the Business and Industry Association (BIA), Northern Utilities, Inc. (Northern), EnergyNorth Natural Gas, Inc. (ENGI), Public Service Company of New Hampshire and Northeast Utilities Service Company (collectively PSNH) and Sprague Energy Corp. (Sprague).

On December 1, 1992, ENGI and Northern jointly filed a Motion to Designate Staff, which the Commission denied in Report and Order No. 20,700 (December 15, 1992). A January 4, 1993 joint Motion for Rehearing was denied in Report and Order No. 20,734 (January 25, 1993). That denial was appealed to the New Hampshire Supreme Court by Northern; the Court, on May 5, 1993, declined to accept the appeal without prejudice to raise the issue upon completion of the case in full.

On April 9, 1993, Northern reasserted a request for designation of certain Staff. The request was made formally in writing on April 15, 1993 (Second Motion) to which Anheuser-Busch, Sprague and Staff objected on April 19, 1993. The Commission, in Report and Order No. 20,834 (May 4, 1993), denied the request. Northern filed a Motion for Rehearing of Order No. 20,834 on May 24, 1993, to which Sprague, Anheuser-Busch and Staff objected. The Commission denied the Motion for Rehearing in Report and Order No. 20,870 (June 15, 1993).

On November 20, 1992, Anheuser-Busch, Sprague, the BIA and Staff (collectively the signatories) filed with the Commission proposed policy guidelines in the form of Joint Recommendations, relating to the regulation of customer owned gas transported over local distribution company (LDC) facilities. At the request of the LDCs, the signatories subsequently developed and filed Trial Rates for interruptible transportation that reflect the principles embodied in the Joint Recommendations.

There were 21 hearing days in this docket, extending from November 23, 1992 through April 21, 1993. Northern, ENGI, Sprague, Anheuser-Busch, PSNH, OCA and Staff filed initial briefs on May 21, 1993. Northern, ENGI, Sprague, Anheuser-Busch, OCA and Staff filed reply briefs on June 9, 1993 and on June 11, 1993 OCA filed comments on statements contained in Staff's reply brief.

II. ISSUES, POSITIONS AND COMMISSION ANALYSIS

A. Introduction

New Hampshire's natural gas users until now have had a choice of taking "firm sales service" and/or "interruptible sales service." Under firm sales service, gas is made available to the user at all times, regardless of the season or demands on the system. Under interruptible sales service, the user must have an alternative fuel supply because competitively priced gas is typically not available during the peak winter months or when supplies are constrained. Residential customers and most business customers take firm sales service, because the cost of installing and operating an alternate fuel system is too great for all but the largest commercial gas users.

Sales service is a "bundled" service comprised of the gas that the LDC receives from

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the interstate pipeline and the transportation of that gas over the LDC's distribution facilities. The rates charged for that service cover the wellhead cost of the gas, the transportation cost to bring the gas from the wellhead to the LDC over the interstate pipeline, and the cost of transporting the gas to customers over the LDC's distribution system. Although New Hampshire's LDCs can and do purchase gas directly from producers and marketers, and pay the interstate pipelines to transport that gas, the lack of transportation tariffs at the LDC level has until now prevented those suppliers from dealing directly with customers.

The Federal Energy Regulatory Commission (FERC), in a series of orders which culminated in the issuance of "Order 636" in 1992, has overseen the development of a national gas market in which producers and marketers regularly compete with interstate pipelines to sell gas primarily to LDCs, but also to customers. In Order 636, FERC determined that to achieve the goal of a competitive national gas market interstate pipelines must be barred from selling bundled gas to

LDCs and instead must confine their activities to the transportation of gas owned by others. This means that New Hampshire's LDCs must replace bundled pipeline gas with unbundled gas purchased from producers or marketers and unbundled transportation purchased from the pipelines.

The first question in this case is not whether LDCs should totally unbundle as the FERC has required of interstate pipelines, but whether LDCs should offer their customers a choice of bundled sales gas or unbundled transportation service. That is, should New Hampshire customers have access to the national market so they can share in its benefits?

All of the parties and Staff agreed that customers should have the option to purchase gas directly from other suppliers and that the way to provide that option is to offer firm and interruptible transportation services. However, there was considerable disagreement on the terms and conditions for those services, particularly the interruptible service. The LDCs and the OCA initially argued that value of service (VOS) pricing, now in effect for interruptible sales service, should be adopted for interruptible transportation service. ENGI and the OCA subsequently amended their positions and recommended the inclusion of a price cap to limit rates charged to interruptible transportation customers. VOS pricing of interruptible sales results in a price just below the price of the customer's alternative fuel (No. 2 oil, for example) in order to maximize the margin on the sale while still keeping the customer as a gas user. Pure VOS pricing (i.e., without a cap) applied to interruptible transportation would result in a price equal to the customer's alternate fuel less the LDC's gas cost.

Under VOS pricing then, the price for interruptible sales or transportation service could vary from day to day as the alternate fuel price fluctuates. The record reflects that during the Gulf War, for example, when oil prices rose sharply, the LDCs raised interruptible sales gas prices to remain just below the cost of oil, even though the commodity cost of gas did not appreciably change. VOS pricing can also vary customer by customer, according to each customer's alternative fuel, so that a customer using No. 2 oil as an alternate fuel might be charged a higher price for gas than a customer using No. 6 oil as an alternate fuel. VOS has long been the method of pricing approved by this Commission for interruptible sales service.

Anheuser-Busch, Sprague and the Commission Staff argued that interruptible transportation should be priced along cost of service principles and proposed a set of Joint Recommendations and Trial Rates which they described as reflective of cost, though not truly cost based, as the Trial Rates are substantially greater than the incremental cost of interruptible transportation. However, the sponsors of the Trial Rates recommended that the LDCs be allowed to "flex" down those rates in a non-discriminatory manner in order to remain competitive with alternate fuel suppliers. The BIA joined this position. PSNH argued in its brief in support of the general structure of the Trial Rates but recommended that a different method be used to calculate actual rate levels. Staff responded by noting that PSNH's method would lower rather than increase the Trial Rates.

While there are numerous issues to be resolved in this case, the heart of the dispute is whether to adopt a VOS approach or a cost of service based approach to interruptible

transportation pricing. Many other determinations flow from that threshold question. Because of the number of issues and participants in this docket, we will only highlight positions here and not recount the full positions of every party or the Staff. We refer those interested to the transcripts of our 21 hearing days and the initial and reply briefs for a full understanding of all positions on all issues.

B. Should New Hampshire LDCs Offer Transportation Services?

There is no dispute among the participants to this case that New Hampshire should follow the lead of other states and the FERC and develop tariffs for transportation services. We find that transportation rates are in the public interest.

While firm transportation may not be a practical option at this time, due to the current scarcity of pipeline capacity in the region, both firm and interruptible transportation tariffs should be developed and offered. As urged by all participants, firm transportation should be priced on a cost of service basis, which is the method by which firm sales service is now priced. However, there was some dispute as to the methodology that should be employed to develop the cost based rates for firm transportation.

C. Should Firm Transportation Rates be Developed Based on the Cost Allocation and Rate Design Methodologies Used to Develop Sales Rates?

1. Positions of Parties and Staff

With the exception of ENGI and the OCA, all of the participants in this case proposed a firm transportation rate equal to the non-gas component of the equivalent firm sales rate, adjusted to remove production facility costs. ENGI argued that customers converting from firm sales to firm transportation service should also pay, on a temporary basis, the gas related pipeline demand charge. The OCA argued that all firm transportation customers (not just those converting from firm sales service) should pay a rate that includes pipeline demand charges.

Northern also argued for a firm transportation rate structure that included a reservation charge to recover the fixed costs of the service. Staff opposed Northern's recommendation on the grounds that it would tilt the playing field in favor of sales service and thus unfairly impede the development of transportation.

2. Commission Analysis

We have frequently stated over the last several years our intent to move rates closer to cost. We believe that this continues to be a rational policy. We will, therefore, require firm transportation rates to be developed based on the same cost allocation and rate design methodologies that were used to develop existing sales rates. It would be inappropriate to artificially stimulate or restrain the development of the firm transportation market by approving rates that are not cost reflective. Alternative rate design issues can best be addressed in a full rate case.

We will deny ENGI's request to include pipeline demand charges in firm transportation rates as it failed to establish that in the absence of such treatment those costs would be stranded. Indeed, evidence was presented that indicated surplus pipeline capacity could be utilized by LDCs to displace higher cost supplemental supplies or meet future load growth.

D. Should Stand-by Sales Service Be Made Available to Transportation Customers?

1. Northern, ENGI and OCA

Northern would offer stand-by sales service to firm transportation customers under certain conditions. First, the provision of such service should not impair system reliability or dramatically increase costs to serve other

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customers. Second, customers requesting such service must provide assurances that they would be willing and able to pay all of the associated costs. Concerning the rate for firm stand-by service, Northern proposed a reservation charge to cover the incremental capacity costs and a variable rate to cover incremental supply costs.

Despite initially opposing the provision of stand-by sales service to firm transportation customers, ENGI agreed to do so, provided it was priced at cost.

Northern and ENGI also support the provision of stand-by sales service to interruptible transportation customers, provided it is priced on a VOS basis.

2. Anheuser-Busch, Sprague, BIA, Staff

The Joint Recommendations support offering stand-by sales service to firm transportation customers but not to interruptible customers. The signatories agreed with the pricing approach advocated by Northern for firm transportation customers.

The signatories also recommended that LDCs offer an unbundled stand-by service to interruptible transportation customers on an as-available basis. The transportation component of the service would be priced at the applicable Trial Rate and the commodity component at the incremental cost of gas plus some fixed margin.

3. Commission Analysis

Because firm customers typically value supply security but do not generally have alternate fuel capability, stand-by sales service will be an important consideration for any firm sales customer that is considering converting to firm transportation. However, we find it is unnecessary at this time to make stand-by service mandatory for firm customers. We will approve, therefore, the option of stand-by sales service, applying most of the service conditions and rate treatment proposed by Northern. We will adopt the following conditions set by Northern: 1) that provision of stand-by sales service not impair system reliability or dramatically increase costs to serve other customers; 2) that a reservation charge be levied to cover the incremental capacity costs, and 3) that a variable rate be applied to cover incremental supply costs.

We do not adopt, however, Northern's request to make stand-by sales service conditional on the receipt of an assurance from the customer that all costs will be paid, regardless of whether the customer continues to take service. While the request may seem reasonable on its face, we are troubled by the use of different standards for firm sales and firm transportation customers. Firm sales customers who leave the system because they convert to another fuel or who relocate out of the state are not required to continue paying for distribution system investments made on

their behalf. Given the nature of stand-by investments, however, we would entertain proposals that require stand-by sales customers to commit to payments for a limited period of time.

E. Should Interruptible Transportation Rates be Based on Cost-of-Service or Value-of-Service Principles?

1. Northern, ENGI and OCA

Northern was the only party to urge the adoption of pure VOS pricing for interruptible transportation. Northern argued that by setting the rate at the price of the customer's alternate fuel less the utility's gas cost, it could remain competitive without doing harm to its firm customers. Northern was also critical of the Trial Rates, claiming on the one hand that they will cause significant economic harm to firm customers while on the other providing a significant economic incentive for the largest firm customers to convert to interruptible transportation.

Northern's main criticism of the Trial Rates was their potential to increase rates of core customers. Northern calculated that as a result of reduced margins from interruptible sales customers and lost net revenues from converting firm sales customers, firm rates could increase by at least \$1.2 million. A sec-

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ondary effect of this increase is that Northern would be in a poorer competitive position, possibly resulting in more conversions and even higher firm rates.

ENGI and the OCA both argued that the interruptible transportation rate should be capped at the firm bundled rate less the commodity cost of gas, that is, the same level proposed for the firm transportation rate. ENGI's primary motivation in proposing a capped interruptible rate was to strike a balance between the interests of interruptible transportation and firm sales customers.

Like Northern, ENGI was concerned about the impact of the Trial Rates on core customers which it estimated to be about \$700,000 annually. Further, ENGI noted that with the uncertainty over the implementation of Order 636, the Commission should not add to the chaos by a change in pricing for customers who are likely to switch from interruptible sales (now on VOS) to interruptible transportation. Moreover, other New England states which have developed interruptible transportation services (Massachusetts, Connecticut, and Rhode Island) have adopted VOS pricing.

2. Anheuser-Busch, Sprague, BIA, Staff

Anheuser-Busch, Sprague, the BIA and the Staff argued that VOS is not appropriate for interruptible transportation pricing because gas utilities still retain market power over transportation. Instead, they proposed a pricing policy which they termed "cost-reflective", that is, a price which while not strictly cost based, bears a closer relationship to the cost to serve than would VOS pricing. At the request of the LDCs for actual rates, the signatories to the Joint Recommendations submitted the following Trial Rates:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

TRIAL TRANSPORTATION RATES
(per MMBtu)

Northern Trial Rate

First 2,000
 2,000 - 30,000
 Over 30,000

Those arguing against VOS pricing state that interruptible transportation is by nature an inferior service to firm transportation and, therefore, should be priced less than the firm transportation rate. They contend that pricing interruptible transportation on a VOS basis will inevitably produce prices that exceed the firm transportation rate (which they argue amounts to monopoly pricing), stymie the development of transportation, and result in transportation tariffs on the books but seldom used. They assert that while all the details of Order 636 are not yet in place, the broad parameters are set; final implementation need not be accomplished before the LDCs offer unbundled transportation services to New Hampshire customers.

Regarding the issue of Trial Rate impact, Staff agrees that there is potential margin loss if customers switch from sales services to interruptible transportation under the Trial Rates but does not believe that the magnitude of that loss approaches the loss suggested by the LDCs. Staff's review of Northern's impact analysis indicated potential rate impact from 0.2% to 0.8%, substantially less than the figure estimated by Northern. Likewise, Anheuser- Busch's review of ENGI's impact analysis suggested a rate impact of \$105,000, or 0.15% of present revenues.

3. Commission Analysis

We will continue to apply VOS pricing for bundled interruptible sales service. We will not, however, authorize such pricing when the commodity and transportation services are offered separately. Our role as Commissioners must encompass more than merely overseeing the continued viability of existing services; rather we must look to promote the introduction of innovative and cost efficient services for all customers, whether they are commercial, industrial or residential. We do not believe that the application of VOS pricing to transportation will encourage more innovation and greater and more efficient gas usage. On the contrary, because VOS pricing is designed to allow LDCs to extract the maximum possible margins from customers, we believe it must

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undermine the economics of transportation and as a result discourage competitive entry. Stated differently, VOS pricing provides LDCs with a degree of control over the business affairs of buyers and sellers which eventually will limit the market for gas in New Hampshire and unnecessarily raise energy costs.

We will watch closely the degree to which LDCs take advantage of the new marketing opportunities that the Clean Air Act and the unbundling of the interstate pipelines have brought to the gas industry. We see natural gas as a fuel supply with tremendous advantages in coming years, not the least of which are the environmental benefits of a clean fuel at a time when emissions compliance strategies are receiving as much attention as energy prices. VOS based transportation pricing cannot in our view meet the needs of those new markets.

Concerning rate impact, the Commission is not persuaded that the LDCs or their firm customers will be significantly affected by implementation of the Trial Rates. With respect to

Northern, we believe that the high level of uncertainty surrounding many of the predictions renders estimation of a "reasonable" impact extremely difficult, if not impossible. This uncertainty has resulted in Northern making several assumptions which raise serious concerns about the validity of its results. For example, disregarding the deterrence effect of capital shortages or strict balancing and scheduling provisions when evaluating how many firm sales customers would convert to interruptible transportation seems to us to be unrealistic. If, however, we were to accept that the Trial Rates offer so attractive a package for a high percentage of firm customers to convert to gas transportation, would not those rates and terms similarly attract alternate fuel users to convert to gas, thereby increasing the users of natural gas on each LDC's system?

Additionally, we do not find persuasive Northern's response to Staff's criticism that Northern failed to fully reflect in its analysis the system avoided costs that result when firm customers elect to take interruptible service. That does not mean, however, that we have accepted Staff's analysis in full. Staff's review extended Northern's analysis, but we find some questions still remain. In particular, the Commission is concerned that Staff's projection of substantial revenues earned from the temporary release of surplus capacity may be overly speculative, given that the secondary capacity market is still in its infancy and prices have yet to be established. While cannot know with certainty what those numbers will be, we find it appropriate to embark on a transportation system nevertheless, even while the final details of the capacity release program are developed.

With respect to ENGI, the picture is much less cloudy. Even if we were to conclude that ENGI's unadjusted \$700,000 impact is correctly estimated, the resulting rate increase of about 1% would not in our opinion be so adverse as to cause us to forego the benefits of a transportation system. Second, ENGI's own witness agreed under cross examination that the unadjusted impact includes costs relating to the conversion of customers who are unlikely to receive any economic benefit from the interruptible service. Third, the unadjusted impact includes the cost of installing control equipment that we believe to be unnecessary to the provision of this service (see below our analysis of ENGI's request to install remote shut-off equipment).

Finally, we do not believe that this decision necessarily compels abandonment of VOS pricing for interruptible sales. This docket involved analysis of natural gas transportation, and policies regarding its pricing and conditions. Our determinations are thus limited to establishing terms and conditions for transportation service and ensuring a framework to develop a strong transportation market.

F. What Rates Should Apply at the Outset?

1. Anheuser-Busch, Sprague, Staff

Sprague and Staff supported the Trial Rates on the grounds that they form a reasonable starting point for the introduction of transportation. Anheuser-Busch argued in its Initial Brief that although it participated in the

significant movement toward cost than was previously thought possible. Anheuser-Busch based its new position on the belief that the Trial Rates will produce margins far above cost and far above the margins recently generated from interruptible sales. For these reasons, Anheuser-Busch recommended¹⁽⁶⁵⁾ that the seasonal tail block rates be lowered and that the lower rates also be applied to the middle block of terms, that is, the middle block should be eliminated.

2. Northern, ENGI and OCA

ENGI argued in its Reply Brief that Anheuser-Busch was mistaken when it claimed that the Trial Rates would generate greater margins than the margins generated from interruptible sales. According to ENGI, the 1992 interruptible sales margins were artificially depressed because of special factors relating to its interstate pipeline. Further, ENGI argued that the new lower rates advocated by Anheuser-Busch are not in the record and therefore must be ignored.

3. Commission Analysis

We heard testimony that the Trial Rates were developed by taking the non-gas firm rates (including the declining and seasonal rate structures) currently charged to the largest customers of ENGI and Northern and then modifying them to ensure that interruptible customers pay no more to transport gas than firm customers. We also heard that the resulting Trial Rate block prices significantly exceed the cost of interruptible transportation service, although no one produced a cost of service study supporting the numbers. Several witnesses testified that the actual cost of interruptible transportation is in the range of \$0.10 to \$0.20 per MMBtu whereas the Trial Rates range from a high of \$2.20 to a low of \$0.26 per MMBtu for ENGI and a high of \$1.32 to a low of \$.35 per MMBtu for Northern, which leaves us in no doubt that the Trial Rates are well above cost.

This Commission has for some time ordered ratemaking that is more reflective of the cost to serve. At times we have tempered the result that would be reached under a strict application of the cost of service principle by gradually moving rates towards cost. *See e.g.* DR 90-183, *EnergyNorth Natural Gas, Inc.*, Order No. 20,542 (July 20, 1992); DR 92-009, *New Hampshire Electric Cooperative, Inc.*, Order No. 20,618 (November 15, 1992). However, in situations where the need for gradualism is less of a factor (e.g. when the service in question is new or the rate impact is minimal) fairness and the ultimate economic interest of core customers require us to adopt rates that are more cost-reflective.

Although interruptible transportation is clearly a new service, no one has testified that its introduction will have no rate impact. However, our analysis has concluded that the rate impact for ENGI is likely to be minimal whereas for Northern the best we can say is that it is unlikely to be significantly adverse.

Because we are uncertain as to the magnitude of the rate impact resulting from the implementation of Northern's Trial Rates, we will not order more cost reflective rates at this time and instead will adopt the Trial Rates for an interim period of 24 months. We will also reject PSNH's recommendation to use a different method to calculate the Trial Rates since that method would increase the rate impact on the LDCs. The LDCs will be allowed to flex those rates downward on a non-discriminatory basis. Based on the response of customers to those rates and the resulting rate impacts, we will determine on a company by company basis whether to order

rates that are more reflective of the cost to serve. In the meantime, we will direct the LDCs to investigate the incremental cost to provide interruptible transportation service.

G. Should a Volumetric Threshold and Fixed Customer Charge be Part of an Interruptible Transportation Tariff?

1. Northern, ENGI, OCA

Though all of the parties to this proceeding agreed that it would be reasonable

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to impose a minimum volumetric threshold, ENGI and the OCA opposed the 1,000 MMBtu per month figure included in the Trial Rates. ENGI argued that the threshold should be higher so as to limit initially the number of customers that might request service under this tariff. The OCA suggested 2,000 MMBtu per month may be more appropriate, given the finite administrative resources of the LDCs, but encouraged the aggregation of loads to allow residential customers to avail themselves of transportation service.

On a related matter, all of the parties agreed on the need for a customer charge to recover the customer-related costs associated with the provision of transportation service. Further, no party contested the reasonableness of the \$200 per month customer charge included in the Trial Rates.

2. Anheuser Busch, Sprague, BIA, Staff

In recognition of the administrative burden on LDCs that could result from the availability of transportation services, the Joint Recommendations proposed that a volumetric threshold and a cost-based customer charge be imposed. In anticipation that a volumetric threshold may be viewed as discriminatory, the Joint Recommendations also proposed that aggregation of customer loads be permitted.

3. Commission Analysis

The record in this case suggests that customers without a significant volume of usage are unlikely to find it cost effective under the Trial Rates to convert from firm or interruptible sales to interruptible transportation. Several witnesses testified that the large customer charge, the declining block rate structure, and the high cost of contracting and coordinating third party supplies would deter all but the largest customers. In addition, customers considering converting from firm sales to interruptible transportation would also have to contend with the up-front cost of obtaining an alternate fuel capability. For these reasons, we do not find a need for a volumetric threshold. We also believe that the threshold proposed in the Trial Rates may serve to restrict customer choice and the development of new markets. Furthermore, we are concerned that the \$200 per month customer charge was proposed without any cost justification.

Based on the above, we believe that all customers, regardless of size or volume of usage, should be free to decide whether the combination of market priced gas and cost-based transportation is in their economic interest. We will reject the threshold provision and leave it to each customer to determine whether it wishes to avail itself of transportation services.

In the event customers determine that due to their size transportation service is uneconomic, aggregation of customer loads may be the answer in some service areas. Though the testimony in

this proceeding does not suggest aggregation is likely to be a factor in New Hampshire, we do not find it appropriate to block potential market solutions by imposing a rule that prevents aggregation.

LDCs will incur administrative costs when providing transportation services. It is appropriate that the transporting customer be responsible for those costs. In order not to delay the implementation of transportation services, therefore, we will approve, on an interim basis, the proposed \$200 per month customer charge. We will require that within 120 days of our order, each LDC file a cost study identifying the actual customer-related costs of providing transportation service. The study shall be based on the customer cost methodology approved in DE 86-208.

H. Should the Current Curtailment Policy be Amended to Accommodate Transportation?

1. Anheuser-Busch, Sprague, BIA, Staff

The Joint Recommendations proposed that the principles underlying the Commission's existing curtailment policy for sales services be retained and extended to transportation services. That is, firm sales and firm transportation customers should have pri-

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ority over interruptible sales and interruptible transportation customers and further, sales and transportation customers receiving the same service quality (i.e., firm or interruptible) should have the same priority. The parties to the Joint Recommendations also proposed that transportation customers be compensated for any gas taken under curtailment at the price of the customer's alternate fuel.

2. Northern, ENGI and OCA

Northern supported the Joint Recommendations' treatment of service priority and the level of compensation accorded to curtailed customers. ENGI, however, requested that it be allowed to set priority levels among customers receiving the same service quality. ENGI also proposed that the level of compensation for any gas taken under curtailment be set at ENGI's average cost of gas.

3. Commission Analysis

We have consistently held that firm sales customers, who typically have no alternate fuel capability, should have priority over interruptible sales customers. We will continue this requirement for firm and interruptible sales, and extend it to firm and interruptible transportation services. Under this new policy there will be two levels of priority. The higher level will apply to firm sales and firm transportation, that is, firm transportation customers will have the same rights as firm sales customers. The lower level will apply equally to interruptible sales and interruptible transportation. As noted by Northern, this means that during pipeline curtailments, an interruptible transportation customer with a back-up alternate fuel may have to relinquish its gas to the LDC for delivery to higher priority firm sales customers. Further, because all interruptible customers are required to provide for their own security through the installation of alternate fuel facilities, we see no need or know of any reason to favor one interruptible service over another. Interruptible sales and transportation services (including so-called quasi-firm services) will

therefore have the same priority, and curtailments will be performed on a pro-rata basis.

I. How Should Transition Costs Be Handled?

1. Northern, ENGI and OCA

Neither Northern nor ENGI could estimate the transition costs that may be allocated to them as a result of Order 636, but both believe the costs will be significant. ENGI argued that Tennessee Gas Pipeline (TGP), the interstate pipeline which serves ENGI, is allowed to recover from its customers any transition cost associated with the termination of gas supply contracts or stranded investments. Also according to ENGI, LDCs are entitled to recover FERC-mandated costs from their customers.

The LDCs and OCA argued that federal transition costs allocated to New Hampshire LDCs should be borne by all customers, not just firm ratepayers.

The LDCs also argued that conversions from firm sales to interruptible transportation could cause stranded pipeline capacity and gas supply costs at the LDC level. ENGI's solution to this problem is to impose exit fees on the converting customers. Northern opposed this solution on the grounds of consistency, noting that sales customers who leave the system for economic reasons are not charged exit fees.

2. Anheuser-Busch, Sprague, BIA, Staff

The Joint Recommendations proposed that the LDCs be allowed an opportunity to recover identifiable and verifiable transition costs that are determined to be equitable and lawful. However, Staff questioned whether it is appropriate to assign to interruptible transportation any federal transition costs allocated to the LDCs on the basis of firm demands if the LDCs are unwilling to release firm capacity.

3. Commission Analysis

Perhaps the only point of agreement between the parties on federal transition costs is that no one, including the members of this Commission, knows what the ultimate effect will be on New Hampshire ratepayers.

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While we understand the desire to anticipate the impact of allocated transition costs, the fact remains that this issue is not ripe for decision by this Commission until it has been heard by the FERC. When that point is reached we will consider all of the arguments, including whether it is appropriate to assign any of the federal transition costs to converting firm sales customers.

For the same reason, we will only address the issue of cost recovery for the buy-out of LDC gas supply and pipeline capacity contracts when, and if, those costs are actually incurred. Under no circumstances, however, will we authorize the recovery of costs which do not relate to the implementation of transportation services.

J. What Type of Balancing and Scheduling Service Should be Offered?

1. Northern, ENGI and OCA

The LDCs argued that transportation customers should not be provided balancing and

scheduling services that are more favorable than the services provided to them by interstate pipeline companies. According to Northern, the balancing and scheduling service provided to it by Granite State Gas Transmission, the interstate pipeline that serves Northern, will mirror the service provided by TGP.

Under TGP's latest tariff, LDCs will be permitted a 10% daily overrun of the amount nominated at each delivery point. Takes that exceed the 10% limit will be assessed an overrun charge. Charges will not be assessed on undertakes. LDCs will also be able to reduce their monthly imbalance cashouts by taking actions to correct imbalances through adjustments to daily nominations and gas flows, and by trading imbalances with other LDCs in the same zone.

Northern has proposed a balancing and scheduling service that mirrors TGP's in most respects but which contains an additional cashout mechanism that is intended to deal with imbalances on days when Northern's marginal source of supply is supplemental gas.

Northern has also proposed to assess an unauthorized overrun penalty against firm transportation customers if deliveries to customers on any day exceed by more than 2% the customer's maximum daily transportation quantity. Similarly, Northern proposed to assess the same penalty on interruptible transportation customers if deliveries on any day following notification of interruption exceed the revised scheduled delivery by more than 2%.

ENGI made two recommendations not found in Northern's proposal. First, ENGI has requested that it be authorized to provide balancing and scheduling free of charge to interruptible customers if: (a) VOS pricing is adopted; and (b) it is authorized to recover any imbalance costs from core ratepayers. If VOS pricing is not adopted for interruptible transportation, ENGI has requested that it be authorized to provide balancing and scheduling to all transportation customers at cost.

2. Anheuser-Busch, Sprague, BIA, Staff

The Joint Recommendations proposed that LDCs provide a balancing and scheduling administration service which requires customers to assign to the LDCs their rights to deal directly with third party suppliers and to change daily nominations when necessary for efficient management of gas supplies. Under this arrangement, the LDCs would be responsible for any imbalances and thus would allocate the associated penalties among all users on a pro-rata basis.

Staff urged the Commission to reject the LDCs' proposal to mirror TGP's terms and conditions on the grounds that the LDCs intend to apply those provisions to interruptible transportation customers only, which will unfairly advantage sales over transportation. Additionally, Staff objected to the proposal to assess a penalty on an out-of-balance transportation customer when the imbalance causes no financial harm to the LDC.

3. Commission Analysis

The changing role of pipelines from merchants to transporters, occurring over the past 10 years, and the accompanying

increase in the number of shippers, has resulted in the need for more demanding operational

controls to ensure the physical and financial integrity of the interstate system. Because of these new controls, LDCs can no longer allow their loads to swing erratically without fear of financial penalty. Further, LDCs are required by the pipelines to function as delivery point operators; that is, all gas flowing through an LDC delivery point, whether destined for sales or transportation customers, is the responsibility of that LDC, including the associated charges and penalties. It is therefore imperative that LDCs either acquire an ability to avoid pipeline penalties or to pass on the costs to those that cause them.

With respect to firm sales loads, it is our understanding that the LDCs can, if the need arises, utilize underground storage gas or supplemental fuels to correct for any mismatch between daily demands and daily nominations. The cost of providing this service is recoverable through firm rates. It is also our understanding that imbalances attributable to interruptible sales loads would be met in the same way with the costs flowing to firm ratepayers. With interruptible transportation, however, we are confronted with two proposals. The parties to the Joint Recommendations would provide the LDCs with the means to avoid penalties by authorizing changes to their daily nominations to stay in balance. Any failure to do so would be attributed to the LDCs and the resulting penalties recovered from all users. In contrast, the LDCs favor passing on all costs since they advocate applying the same controls to interruptible transportation customers as are applied to them.

Though we find merit in both proposals, we agree with Northern that the solution contained in the Joint Recommendations involves risk to firm ratepayers. There is an element of fairness in a proposal that requires all users of a pipeline to be responsive to the same operational controls. This second point leads us to one of two concerns we have with the LDC proposal: namely, the favorable treatment accorded to interruptible sales customers. We can think of no legitimate reason, why an LDC would implement balancing and scheduling conditions when the customer receives commodity service from a third party supplier but waives those conditions when the service is provided by the LDC. We will require equal treatment for interruptible sales and transportation customers.

Our second concern relates to the LDC's proposal to assess out-of- balance penalties at a time when the LDC itself faces no penalty from the interstate pipeline. We do not believe it is necessary to levy a penalty against a transportation customer in situations where the LDC itself is in balance and, therefore, faces no penalty to be passed on. Given that transportation customers have no way of knowing an LDC's daily imbalance position, we consider it unlikely that a transporting customer would gamble on the chance that its overtake might be offset by the LDC's undertake.

K. Should LDCs be Allowed to Compete for Transportation Service?

1. Northern, ENGI and OCA

Northern's arguments regarding LDCs as competitors distinguished between firm and interruptible transportation customers. With respect to the latter, Northern supported the right to compete with gas marketers and proposed that it be allowed to utilize any surplus gas supplies and/or transportation capacity purchased for firm customers. With respect to the former, Northern argued that the record was insufficiently developed to support a decision either way. ENGI took no definite position on this issue. The OCA recommended the regulated marketer

approach but suggested "below- the-line" treatment of any revenues received as a result of marketing activities outside of their franchise territories.

2. Anheuser-Busch, Sprague, BIA, Staff

The Parties to the Joint Recommendations argued that LDCs should be allowed to compete with third party suppliers either as non- regulated marketing affiliates or

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within their regulated operations, subject to such constraints as not selling system gas below incremental cost. In either case, LDC customers should face the same terms and conditions as applied to the customers of their competitors. In the case of non-regulated marketing affiliates, Staff argued that clear recordkeeping is needed to ensure core ratepayers do not subsidize non-regulated activities.

3. Commission Analysis

We will adopt the proposal by the Parties to the Joint Recommendations. To do otherwise would not only be inequitable, it would run counter to one of our primary goals: namely, the establishment of a framework for each industry sector that encourages vigorous but fair competition in all utility markets not subject to natural monopoly. As noted in Order 636, the benefits of competition are maximized when the greatest number of sellers gain access to the greatest number of buyers. Excluding LDCs from the number of eligible sellers would unreasonably limit customer choice, almost certainly restrict the range of services offered, and perhaps negatively affect price.

Concerning the issue of regulated or non-regulated marketers, we believe that decision is primarily one for LDC management to determine. However, to ensure core ratepayers do not subsidize non- regulated activities, we will require LDCs that set up non- regulated gas marketing affiliates to seek approval of their accounting and cost allocation procedures. With respect to regulated gas marketers, we recognize the potential for anti- competitive behavior if the LDCs are given first-call on interstate pipeline capacity not used by core ratepayers. To prevent such anti-competitive behavior and to ensure that core ratepayers benefit to the maximum possible extent from unused capacity, we will require LDCs to utilize the interstate pipeline's capacity release program both as a depository for surplus capacity and as a means to procure capacity for non-core customers.

L. Should Remote Shut Off be Ordered?

1. Northern, ENGI and OCA

ENGI argued that in order to serve its interruptible transportation customers, it would have to install a sophisticated computerized monitoring and remote shut-off capability. Currently ENGI serves its interruptible sales customers with some remote metering but without remote shut-off. To shut off a customer, therefore, ENGI has to go to the premises and manually shut off the valve. The remote capability would allow that shut-off to be done at one of ENGI's facilities. ENGI estimates a cost of \$500,000 to install the remote shut-off capability. Northern stated it did not anticipate investing in a remote shut-off system.

2. Anheuser-Busch, Sprague, BIA, Staff

Anheuser-Busch, Sprague, and the Staff argued that there was no need to invest in the remote shut-off system in order to serve interruptible transportation customers.

3. Commission Analysis

We are not convinced that the remote shut-off capability is needed in order to serve customers. According to ENGI's testimony, interruptible sales customers who take gas when they ought not to are rare. ENGI cited one "problem" customer, which it was reluctant to shut off because it serves the public. We do not believe the large investment is warranted and will not require or authorize it as a necessary element of providing firm or interruptible transportation service.

In addition to testimony regarding remote shut off capability, there was occasional reference to sophisticated remote metering, already installed for some large interruptible sales customers. We find that if remote metering is necessary for an LDC to install in order to serve interruptible or firm transportation customers, that cost be assessed directly against the transportation customer.

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As we stated in our analysis of stand-by service and balancing provisions, we will not look favorably on any pricing by which sales customers are treated more advantageously than transportation customers in order to discourage the development of transportation service. Because the focus of this docket has not been on costs to serve sales customers, however, we will await further requests by an LDC or the Staff regarding costs of metering for sales customers if anyone finds the allocation of metering for sales customers to warrant review.

Our order will issue accordingly.

Concurring: September 7, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that EnergyNorth Natural Gas, Inc. (ENGI) and Northern Utilities, Inc. (Northern) file within 60 days of this order firm and interruptible transportation tariffs; and it is

FURTHER ORDERED, that firm transportation be priced using current firm sales rates less embedded gas related costs; and it is

FURTHER ORDERED, that interruptible transportation for ENGI and Northern be priced in accordance with the Trial Rates established in this docket for a period of two years; and it is

FURTHER ORDERED, a temporary \$200 per month customer charge be imposed on each customer who takes transportation service; and it is

FURTHER ORDERED, that within 120 days, ENGI and Northern file cost of service studies indicating the actual customer-related cost to serve transportation customers; and it is

FURTHER ORDERED, that within 1 (one) year, ENGI and Northern file cost of service

studies indicating the full incremental cost to serve interruptible transportation customers; and it is

FURTHER ORDERED, that LDCs are not required or authorized to install remote shut-off equipment as a necessary element of providing firm or interruptible transportation service; and it is

FURTHER ORDERED, that ENGI and Northern file reports every six months detailing the monthly volumes, revenues and charges associated with each transportation customer. These reports shall also include the actual prices charged to interruptible transportation customers if they differ from the approved Trial Rates.

By order of the Public Utilities Commission of New Hampshire this seventh day of September, 1993.

FOOTNOTES

¹ Anheuser-Busch's recommendation applied only to ENGI's Trial Rate.

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NH.PUC*09/08/93*[75189]*78 NH PUC 492*New Hampshire Electric Cooperative, Inc.

[Go to End of 75189]

Re New Hampshire Electric Cooperative, Inc.

DR 93-145
Order No. 20,951
78 NH PUC 492

New Hampshire Public Utilities Commission
September 8, 1993

1993-1994 Winter Interruptible Rates; Order Accepting Procedural Schedule.

BY THE COMMISSION:

ORDER

New Hampshire Electric Cooperative, Inc. (NHEC) filed with the New Hampshire Public Utilities Commission (Commission) on July 30, 1993 testimony and exhibits, including proposed tariffs for its 1993-1994 Winter Interruptible Rate; and

WHEREAS, a prehearing conference was scheduled for September 2, 1993, with petitions for intervention due no later than August 31, 1993; and

WHEREAS, there were no requests for intervention; and

WHEREAS, the September 2, 1993 hearing was attended by NHEC, the Office of Consumer Advocate (OCA) and the Staff, at which time NHEC, OCA and the Staff stipulated to the following procedural schedule:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Staff, OCA data requests to NHEC 9/17/93
Responses to data requests 10/01/93
Technical Session (if necessary) 10/08/93 10 am

Staff, OCA Testimony 10/15/93
Hearing on merits 10/27/93 10 am; and

WHEREAS, the Commission finds the foregoing schedule to be reasonable; it is hereby ORDERED, that the foregoing procedural schedule is accepted.

By order of the New Hampshire Public Utilities Commission this eighth day of September, 1993.

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NH.PUC*09/08/93*[75190]*78 NH PUC 493*New England Power Company

[Go to End of 75190]

Re New England Power Company

DF 93-152
Order No. 20-952
78 NH PUC 493

New Hampshire Public Utilities Commission

September 8, 1993

Order Increasing the Short-Term Borrowing Authority.

BY THE COMMISSION:

ORDER

WHEREAS, New England Power Company (NEP or the Company) seeks authorization to increase its short-term borrowing authority from \$300 million to \$375 million; and

WHEREAS, NEP's short-term borrowing authority was last increased by the Commission from \$195 million to \$300 million in November, 1985 (Order No. 17,946, Docket No. DF 85-320); and

WHEREAS, NEP estimates that its short-term borrowing requirements be increased to finance its construction expenditures through short-term debt and to ensure NEP's ability to

repurchase certain of its variable rate tax-exempt mortgage bonds; and

WHEREAS, this Commission, after investigation and consideration finds that such request is consistent with the public good; it is hereby

ORDERED, that New England Power Company, without first obtaining approval of the Commission, is hereby authorized, from time to time, to issue and renew its notes, bonds or other evidences of indebtedness payable in less than twelve (12) months after the date thereof, in an aggregate amount thereof outstanding at any time (not including any such indebtedness to be retired with the proceeds of any new borrowing) not in excess of \$375 million; and it is

FURTHER ORDERED, that on or about January 1st and July 1st of each year said New England Power Company shall file with this Commission a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of said notes, bonds or other evidence of indebtedness.

By order of the Public Utilities Commission of New Hampshire this eighth day of September, 1993.

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NH.PUC*09/08/93*[75191]*78 NH PUC 493*Hampton Water Works Company

[Go to End of 75191]

Re Hampton Water Works Company

DF 93-143
Order No. 20,953
78 NH PUC 493

New Hampshire Public Utilities Commission
September 8, 1993

Order Approving Long Term Debt Financing.

BY THE COMMISSION:

ORDER

WHEREAS, Hampton Water Works Company, ("Hampton Water" or the "Company"), is a public utility engaged in the gathering and distribution water to the public in the Towns of Hampton, North Hampton, and in the Jenness and Rye Beach areas of the Town of Rye, New Hampshire; and,

WHEREAS, the Company having filed with the Commission on July 26, 1993, a petition to issue and sell Three Million Dollars (\$3,000,000) of General Mortgage Bonds and Four Hundred Thousand Dollars (\$400,000) of Common Stock; and,

WHEREAS, the Company proposes to issue and sell for cash \$3,000,000 principal amount of

General Mortgage Bonds ("Bonds"), 7.71% Series due June 1, 2023, to be dated as of their authentication and sold at par to the First Colony Life Insurance Company and will be issued under an original Indenture of Mortgage to the Fidelity Bank of Philadelphia, Pennsylvania; and,

WHEREAS, the Company also proposes to issue and sell 7,902 shares of common stock ("Common Stock"), at \$50.62 per share for a consideration of \$400,000. This Common Stock will be sold for cash to Greenwich Water System Inc., which is the present holder of all the outstanding shares of common stock of the Company; and,

WHEREAS, the net proceeds of the proposed sale of the Bonds and Common Stock will be applied by the Company (a) to pay off the short-terms indebtedness outstanding at the time of the sale, the proceeds of which will have been expended in the purchase and construction of property and facilities reasonably requisite for present and future use in the conduct of the Company's business, (b) to reimburse the Company treasury for expenditures made from it for said purpose, (c) to finance the future purchase and construction of such property and facilities, and to defray the costs and expense of the financing contemplated for this and for other corporate purposes; and,

WHEREAS, the Company anticipates that various fees and expenses associated with obtaining this financing will approximate \$100,000; and,

WHEREAS, this proposed financing appears to be in the public interest; it is hereby

ORDERED, that Hampton Water Works Company be, and hereby is, granted authorization, pursuant to RSA 369:1 to enter into the afore mentioned sales agreements with the First Colony Life Insurance Company for the issuance and sale of Bonds; and with the Greenwich Water Company for the issuance and sale of the Common Stock as described in the petition; and it is

FURTHER ORDERED, that all such borrowings be in accordance with the terms and conditions set forth in the petition; and it is

FURTHER ORDERED, that finalized copies of this financing arrangement be filed with the Commission. A detailed accounting of the final actual issuance costs shall also be filed; and it is

FURTHER ORDERED, that on January 1st and July 1st of each year Hampton Water Works Company shall file with this Commission, a detailed statement, duly sworn to by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of this financing until the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this eighth day of September, 1993.

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NH.PUC*09/08/93*[75192]*78 NH PUC 494*Public Service Company of New Hampshire

[Go to End of 75192]

Re Public Service Company of New Hampshire

DR 93-083
Order No. 20,954
78 NH PUC 494

New Hampshire Public Utilities Commission

September 8, 1993

Order Extending Term of Special Contract NHPUC-88.

BY THE COMMISSION:

ORDER

On April 30, 1993, Public Service Company of New Hampshire (PSNH) filed tariff pages and testimony supporting proposed Sawmill Generation Deferral Rate SGD as well as a request for approval of Special Contract NHPUC-88 between PSNH and New Kearsarge Corporation (New Kearsarge) to become effective on May 31, 1993 and remain effective until Rate SGD became effective by order of the Commission; and

WHEREAS, the Commission issued Order No. 20,852 on May 25, 1993, suspending Rate SGD pending Commission review and temporarily approving Special Contract NHPUC-88 pending final resolution of Rate SGD; and

WHEREAS, on August 25, 1993, the Commission issued Report and Order No. 20,945 approving effective September 1, 1993, Rate SGD as modified in a Stipulation Agreement between PSNH and the Staff of the Commission (Staff); and

WHEREAS, the Commission in Order No. 20,945 directed PSNH to file a technical statement or position paper concerning the eligibility of New Kearsarge based on the approved Stipulation; and

WHEREAS, on September 1, 1993, PSNH filed a position paper describing the current status of New Kearsarge which indicates that presently New Kearsarge does not meet the eligibility requirements contained in Rate

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SGD, but New Kearsarge has indicated it will meet the requirements of Rate SGD after consolidation of its operations scheduled to be completed by the end of September 1993; it is hereby

ORDERED, that Special Contract NHPUC-88 between PSNH and New Kearsarge Corporation remain in effect until New Kearsarge completes its consolidation and is eligible to take service under Rate SGD or November 1, 1993, whichever occurs first; and it is

FURTHER ORDERED, that PSNH report to the Commission when New Kearsarge begins service under Rate SGD.

By order of the New Hampshire Public Utilities Commission this eighth day of September,

1993.

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NH.PUC*09/08/93*[75220]*78 NH PUC 544*Public Service Company of New Hampshire

[Go to End of 75220]

Re Public Service Company of New Hampshire

DE 92-080

Order No. 20,982

78 NH PUC 544

New Hampshire Public Utilities Commission

September 8, 1993

Least Cost Integrated Planning; Report and Order Accepting Offer of Settlement.

Appearances: Thomas B. Getz, Esq. for Public Service Company of New Hampshire; George E. Sansoucy, pro se; Conservation Law Foundation by Jeanne Sole, Esq.; Kenneth Traum for the Office of the Consumer Advocate; Susan W. Chamberlin, Esq. for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

I. *PROCEDURAL HISTORY*

On April 29, 1992, Public Service Company of New Hampshire (PSNH) filed a least cost integrated resource plan (LCIP) for the fifteen year period of 1992 through 2006 with the New Hampshire Public Utilities Commission (Commission) pursuant to RSA 378:38. On June 10, 1992, the Commission issued an Order of Notice scheduling a prehearing conference for July 2, 1992.

PSNH, George Sansoucy, Conservation Law Foundation (CLF) and the Commission Staff (Staff) attended the July 2, 1992 hearing. The Commission granted motions to intervene by Mr. Sansoucy, pro se and CLF.

After several approved modifications to the procedural schedule, the Commission held a hearing on the merits on August 6, 1993, to consider the terms of the proposed Settlement.

II. *Positions of Staff and the Parties*

During the course of discovery in this proceeding, PSNH responded to several sets of data requests submitted by Staff and CLF, and Staff and the Parties participated in numerous technical sessions and settlement conferences. As a result of this exchange of information, Staff and the Parties reached a settlement which resolves or defers all issues pertinent to this case. Staff and the Parties presented an Offer of Settlement to terminate PSNH's LCIP proceeding. Exhibit (Exh.) 1. The details of individual positions are contained in the Offer of Settlement and

will not be repeated here.

III. *Commission Analysis*

Based upon our review of the record, we find that the terms of the Offer of Settlement are just and reasonable and should be approved.

In the Offer of Settlement, Staff and the Parties agree to defer until the 1994 LCIP filing the dispute as to whether PSNH's resource planning and resource procurement decisions should be based on minimizing PSNH's individual revenue requirement or on the economics of the combined NU/PSNH system. Staff and the Parties also agree to defer consideration of whether the capacity transfer agreements, entered into as part of PSNH's reorganization process, can be terminated before the end of the Sharing Agreement, which allocates the distribution of savings created by the merger. Exh.1 at 11.¹⁽⁶⁶⁾

Staff and the Parties further agree that based on the reference load growth assumptions and existing PSNH resources, PSNH does not need additional supply-side resources above those included in PSNH's present filing during the ten year term of the Sharing Agreement. Exh. 1 at 10. Therefore, there is no harm done to the interests of the ratepayers or PSNH in deferring the resolution of this dispute to PSNH's next filing in order to fully examine its implications. Where a capacity transfer is not expected for a ten year span under either the independent or combined system planning approach, it is not necessary to resolve the dispute in this case as long as provisions for its resolution are in place.

Staff and the Parties do recognize that there is a possibility that PSNH will retire or repower Merrimack Unit 2 in 1999 in order to comply with the Clean Air Act Amendments of 1990 (CAAA). Exh. 1 at 10. Our decision in

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the next LCIP filing will resolve the dispute over how replacement resources should be determined before action concerning Merrimack Unit 2 takes place.

A significant area of disagreement which was resolved by the Offer of Settlement concerned funding levels for Conservation and Load Management programs (C&LM). Staff and the Parties agree that higher levels of spending on C&LM would be cost effective, however everyone was aware that embarking on a C&LM program that would cause increases above the legislatively mandated 5.5% fixed rate path would be difficult given economic uncertainty at this time. Staff and the Parties agree to recommend that funding beyond that included in the base rates would come from alternate sources which would not cause an increase to the 5.5% rate path. These are described in detail in the Offer of Settlement. Exh. 1 at 12. We accept the caveat that if it is likely that Merrimack Unit 2 will be retired, the issue of spending levels for C&LM programs will be reconsidered in the next LCIP filing.

We appreciate the creativity used in arriving at alternate sources of C&LM funding and congratulate the Staff and the Parties for their diligence in pursuing compromise over litigation. The Commission also approves the proposed financing/leasing component to PSNH's Energy Services Program to increase cost effective conservation investments. Exh. 1 at 13. The provision for independent consultant monitoring and evaluation of the program will provide

valuable data to the Commission for determining if such programs should be implemented more widely.

We agree, as recommended by the Staff and the Parties for the purposes of settlement, to accept the avoided capacity costs as filed in PSNH's 1992 LCIP for the 1998-2026 period and the avoided energy costs as calculated using the Combined System dispatch.

We further find that PSNH is to provide additional information in its next LCIP filing as delineated in the Offer of Settlement, Exh. 1 at 17-18. These issues include, but aren't limited to, NU/PSNH's integrated modeling practices, the development of loss factors on various voltage levels, SO₂ allowance costs, and the policy implications of relevant sections of the Energy Policy Act of 1992. We expect a thorough discussion of these and all of the issues to which PSNH agreed, in this Offer of Settlement, to provide in its next LCIP filing.

Our discussion here highlights the major provisions of the Offer of Settlement. In accepting the Offer, we accept it in its entirety, and find that it is reasonable and in the public interest.

Our order will issue accordingly.

Concurring: September 28, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that the Offer of Settlement be approved and Docket DE 92-080 be closed.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of September, 1993.

FOOTNOTES

¹ These agreements are discussed in depth in *Re Northeast Utilities/ Public Service Company of New Hampshire*, 114 PUR 4th 1990.

OFFER OF SETTLEMENT

This Offer of Settlement ("Settlement") is jointly sponsored by Public Service Company of New Hampshire ("PSNH" or the "Company"), the Staff of the New Hampshire Public Utilities Commission ("Staff"), State of New Hampshire Office of Consumer Advocate ("OCA"), Conservation Law Foundation, Inc. ("CLF") and George E. Sansoucy, collectively referred to as the "Parties." This Settlement, if accepted by the Public Utilities Commission ("Commission"), will terminate PSNH's above-captioned Least Cost Integrated Resource Plan ("LCIRP") proceeding.

I. Background

On April 1, 1992, PSNH filed, in accordance with NH RSA 378:38 and Commission Order No. 19,052, its 1992 LCIRP. On June 5, 1992 the merger of PSNH and Northeast Utili-

ties ("NU") became effective. The 1992 LCIRP presented a combined NU/PSNH approach to least cost planning and was comprised of reports on the PSNH and Combined System demand forecasts, an assessment of supply-side and demand-side resources, an assessment of transmission requirements for Qualifying Facilities (QF's), and avoided cost estimates based on the economics of the Combined System.

The Commission held a duly noticed pre-hearing conference on July 2, 1992, at which time a procedural schedule was established and motions to intervene were submitted by CLF and Mr. George E. Sansoucy. Both Staff and CLF submitted testimony in this proceeding pursuant to the approved procedural schedule.

II. *Positions of the Parties*

(a.) PSNH's Position

PSNH maintains that resource planning and resource procurement decisions are to be based on the needs and economics of the Combined System as provided for in Section 4 of the Sharing Agreement which was approved in Docket No. 89-244 as part of PSNH's overall reorganization. The Sharing Agreement is a key contractual arrangement within the overall framework of PSNH's reorganization, allows for the allocation of certain synergies created by the merger, contains provisions for sharing of generation and transmission resources and is the contractual basis upon which the Combined System will be planned and operated. Thus, the Sharing Agreement and the Capacity Transfer Agreements are a given in the planning process which, consistent with the Rate Agreement and testimony and findings in Docket No. 89-244, were intended to stay in force for the term of the Rate Agreement.

Based on the foregoing, the Company believes that: (1) analysis of supply and demand resources should be done using Combined System avoided costs. Options are first screened on a Combined System basis and those which pass this screening are then evaluated for possible adverse financial or rate impacts for PSNH; (2) while PSNH has the option to displace potential slice of system capacity transfers with C&LM and/or independent power production ("IPP") to the extent consistent with Combined System planning, as envisioned under Section 4 of the Sharing Agreement, solicitations for such resources must be based on the needs and economics of the Combined System (i.e., not based on PSNH's year of need).

Concerning specific avoided cost issues, the Company believes that with respect to non-utility generators (NUGs) avoided distribution and transmission capacity costs should not be included in the calculation of avoided costs. Avoided distribution and transmission capacity costs are site specific depending on the system impacts and can vary significantly. While such costs are included in the evaluation of individual NUGs, it would be inappropriate to attempt to estimate generic or typical T&D costs for inclusion in avoided cost calculations. In addition, it is the Company's position that the market value of capacity is zero if a company is unable to sell all of its surplus capacity in the market (i.e., surplus capacity that has not been sold has a capacity value of zero). Likewise, new capacity that is in addition to existing surplus capacity has no capacity value.

With respect to what level of C&LM programmatic activity is appropriate, PSNH believes that it would be untimely to plan for or embark upon a level of C&LM that would necessitate a base rate increase for PSNH customers above the 5.5 percent rate path approved by the

legislature.

(b.) Staff's Position

Staff contends that the Combined System planning process used in the filing is at odds with the corporate structure that resulted from the merger and, moreover, is inconsistent with New Hampshire's least

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cost planning requirements. Staff notes that the acquisition of PSNH by NU was not accomplished by making PSNH a party to the agreement that governs the operations of the other NU companies which make up the Initial NU System.¹⁽⁶⁷⁾

Rather, the Joint Plan of Reorganization retained PSNH as a separate system but provided for the creation of certain synergies by requiring the two systems to be operated jointly.²⁽⁶⁸⁾ Most importantly, however, this arrangement means that New Hampshire ratepayers will be charged rates that cover the costs of the generation and transmission resources owned by PSNH less a share of the synergies resulting from the joint operation of the two systems. Thus, least cost planning for PSNH means selecting a resource mix that minimizes over time PSNH's revenue requirements, which includes its direct costs less the share of merger-related synergies. Based on this corporate structure, least cost planning for PSNH can only be achieved by focusing on the needs and economics of PSNH's system.

Staff also argues that there are sound financial and rate impact reasons to support PSNH system planning. In early 1993, PSNH entered into an agreement with environmental and business groups that, among other things, required the Company to commit in 1994 to either retire or repower Merrimack Unit 2 in 1999 in order to meet Phase 2 of the Clean Air Act Amendments³⁽⁶⁹⁾ ("CAAA"). While the U.S. Environmental Protection Agency ("EPA") did not approve that agreement, new negotiations are in progress, and the retirement or repowering of Merrimack Unit 2 remains a strong possibility and thus a major cost concern to PSNH. Staff notes that the retirement of Merrimack Unit 2 will cause PSNH to become capacity deficient in 1999 thus triggering slice-of-system capacity transfers from the Initial System, as provided for in Section 5 of the Sharing Agreement⁴⁽⁷⁰⁾. However, Section 4 of the Sharing Agreement also provides that PSNH may meet its future needs with demand-side resources and/or independent power production. Staff contends that the use of Combined System economics for resource solicitation purposes would understate the optimum quantities of demand-side and/or independent power production for PSNH and thus expose New Hampshire ratepayers to uneconomic capacity transfer and unnecessary rate increases. Accordingly, Staff recommends that the Company base its resource selection processes on the needs and economics of PSNH's system rather than on a Combined System basis.

Staff maintains that PSNH can also solicit power supplies from other utilities if the capacity transfer agreement is terminated, as provided for in Attachment A to the Sharing Agreement which was approved in Docket No 89-244.

Concerning the issue of avoided cost, Staff disagrees with PSNH's contention that the market value of "excess" capacity is zero, and that generic transmission and distribution cost should be

excluded from the calculation of avoided cost.

Staff's testimony is also critical of C&LM expenditure levels proposed by the Company for the near term. Staff agrees that C&LM is cost effective for PSNH and proposes an annual budget of about \$6 million per year during the fixed rate period and that delivery of those programs be coordinated with the Company's load retention efforts.

(c.) CLF's Position

The CLF's testimony stresses the importance of C&LM in light of the requirements of the CAAA. CLF explains that under the CAAA, New Hampshire will be required to achieve substantial reductions in existing emissions of nitrogen oxides over the next several years - as much as 50 to 80 percent below present levels. CLF notes that cost effective demand-side management is one of the few self-funding mechanisms to achieve the necessary reductions. CLF also stresses that "utility sponsored energy efficiency

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programs can be a great help to local economic development by reducing utility nitrogen oxides ("NOx") emissions and making offsets available to new industry." By way of example, CLF estimated that - assuming a very conservative marginal system-wide NOx emission rate of 0.1 lbs. NOx per million BTu - a demand-side management program focusing on new construction, equipment replacement and commercial and industrial retrofit, (phase III of the scenarios developed in the course of negotiations)⁵⁽⁷¹⁾ would be the equivalent of removing 11,850 1990-vintage automobiles from New Hampshire roads.

In addition, CLF points out that NOx emissions trading and banking schemes are likely to be developed to assist states to comply with the CAAA. CLF stresses the additional value of demand-side management as a potential tradable emissions offset.

CLF argues that, therefore, PSNH should be required to invest aggressively in demand-side management, funding at a minimum,

aggressive new construction, equipment replacement, and commercial and industrial retrofit programs as set forth in the Phase III scenario. CLF urges the Commission to consider the value of demand-side management as a least cost CAAA compliance strategy, to keep abreast of the evolution of emission trading policies, and to require utilities to factor the avoided emission controls costs into avoided costs.

CLF's testimony did not address the issue of financing/leasing as an alternative to direct incentives for DSM, as this issue was not raised by PSNH's filing. During technical sessions, CLF noted that it had no knowledge of any financing scheme - the success of which was adequately documented. CLF cautions therefore that any such scheme must be designed and monitored very carefully. CLF indicates that it could only support such a scheme if PSNH would fund independent consultants to participate in the design and implementation of the scheme and its evaluation, and to advise CLF and the non-utility parties on these issues.

(d.) OCA's Position

While the OCA did not prefile testimony in this proceeding, its involvement in the technical

sessions exemplifies its strong interest in least cost planning for PSNH. That interest relates primarily to the effect resource decisions have on bills (short and long term) of residential ratepayers. In crafting a settlement in this proceeding the OCA believes the following factors should be taken into account:

1. C&LM program costs should be allocated to rate classes in proportion to the benefits received by each class from those programs;
2. In the short term (1-2 years) the OCA believes it would be untimely to plan for or embark upon a level of C&LM activity that would necessitate base rate increases for residential or other customers above the 5.5% rate path;
3. C&LM programs directed at the residential class must be cost effective while recognizing the discount rates specific to that class;
4. The instant docket addresses planning issues and thus Commission approval of any settlement should not be regarded as preapproval for resource decisions found to be consistent with that settlement; and
5. With respect to C&LM programs designed for the residential class, the OCA believes that low income customers should have first priority over limited financial resources (because

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such programs would not only conserve energy but also reduce the Company's bad debt costs, thus benefiting all ratepayers). The OCA's second priority would be to make programs broadly available to all residential customers.

III. Settlement

During the course of discovery in this proceeding, the Company responded to several sets of data requests submitted by Staff and CLF, and the Parties participated in numerous technical sessions and settlement conferences. As a result of those settlement conferences, the Parties hereto have reached a settlement which resolves or defers (to another LCIRP proceeding) all issues among them in this case. Specifically, the Parties agree as follows:

(a.) PSNH's LCIRP

The Staff and Intervenors in this proceeding have examined PSNH's 1992 LCIRP and agree that, subject to the exceptions and explanations set forth below, it satisfies the criteria established by the Commission in Order No. 19,549 in Docket No. DR 89-077.

(b.) System Planning

The Parties agree that based on the reference load growth assumptions and existing PSNH resources, the Company has no need for additional supply-side resources above those included in the Company's filing during the 10-year term of the Sharing Agreement. In fact, the Combined System has no need for additional supply-side resources until 2005 based on this 1992 filing. However, the Parties further agree that there is a possibility that PSNH will retire or repower Merrimack Unit 2 in 1999 in order to comply with the CAAA. In the event that Merrimack Unit 2 is retired, additional

resources will likely be needed by PSNH to meet its allocated capability responsibility. The Parties agree that PSNH has the option to displace potential slice-of-system capacity transfers with demand-side management resources and/or independent power production but disagree on how those decisions should be made. The parties also disagree on whether the capacity transfer agreements can be terminated.

PSNH commits to include in its 1994 LCIRP the results of economic studies which compare the costs and rate impacts to the PSNH and Combined Systems of several clean air compliance strategies. At a minimum, those strategies will include the following: (a) continued operation of Merrimack Unit 2 through the addition of pollution control equipment and if required, the purchase of emissions allowances; (b) Merrimack Unit 2 repowering; (c) retirement of Merrimack Unit 2 and its replacement with slice-of-system capacity transfers;⁶⁽⁷²⁾ (d) retirement of Merrimack Unit 2 and its replacement with a mixture of C&LM resources and capacity transfers. In the event the Company must implement a strategy to replace Merrimack Unit 2, and if it determines IPP's can economically compete with that strategy, PSNH will solicit power - supply bids to quantify the price and other characteristics of this capacity and take appropriate action so as to comply with then existing requirements of the Commission relating to least cost integrated planning.

The Parties further agree to defer until the 1994 LCIRP filing the issues of:

1. PSNH or Combined System planning; and
2. Whether the capacity transfer agreements can be terminated before the end of the Sharing Agreement.

(c.) Conservation and Load Management

The Parties agree that the Company's reference spending scenario for Conservation and Load Management ("C&LM")

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and three alternate scenarios that involve higher levels of spending during the fixed rate period are cost-effective over the long-term based on Combined System avoided costs. The Parties further agree that all four scenarios would be considerably more cost-effective relative to PSNH system avoided costs with Merrimack Unit 2 retired. That notwithstanding, the Parties recognize the difficulty of planning for or embarking on a C&LM program that would necessitate a base-rate increase for PSNH above the 5.5% rate path approved in DR 89-244 at this time, given current uncertainty about the Company's Clean Air Act compliance strategy and its impact on the Company's resource needs. It is desirable, therefore, that C&LM expenditures in excess of the amounts already included in base rates be funded from other revenues as explained below in order to negate base-rate increases. Such expenditures will benefit New Hampshire ratepayers by reducing long-term power costs without the adverse impact of near-term rate increases.

Order No 20,626 in DE 92-028 approved C&LM spending levels through December 31, 1993 and stated future spending levels would be determined in PSNH's 1992 LCIRP

proceeding. Therefore, the Parties agree that in 1994 and 1995 PSNH will fund C&LM activities at a level of \$2.6 million or greater as long as these C&LM expenditures would not cause a base-rate increase. The Parties further agree that the allocation of funds to classes as used in DE 92-028 will continue. In addition to funds from existing sources, the Parties agree to recommend to the Commission the use of the following for C&LM: (a) 80% of the proceeds from the sales of surplus sulfur dioxide ("SO₂") allowances; (b) 25% of the net savings available, in accord with Chapter 263 of the Laws of the State of New Hampshire, Session of 1993, that result from the business financing authority refinancing of PSNH taxable debt with tax-exempt pollution control bonds; and (c) a portion of any savings generated from negotiations with hydro producers. (This savings portion will be determined by the Commission at the time any results from hydro negotiations are submitted for Commission approval. Each party reserves its rights to recommend to the Commission what it considers to be an appropriate portion.)

If new information becomes available that indicates the retirement of Merrimack Unit 2 is likely, the Parties agree that C&LM spending levels and revenue sources, including base-rate increases for 1995 and beyond, will be revisited in the 1994 LCIRP proceeding.

In order to utilize the available C&LM funds to facilitate the maximum C&LM investment, PSNH will pursue the addition of a financing/leasing component to its existing Energy Services Program ("ESP"). The leveraging concept could foster additional C&LM investments through ESP in 1994. The financing/leasing component will offer an interest rate buy-down as required for qualifying energy efficiency measures identified through ESP. The major features of the financing/leasing component will include:

1. An interest rate buy-down between zero percent and the prevailing market rate. The amount of the specific subsidy will be the result of specific individual review and negotiations on a case-by-case basis, based upon energy savings, the financial condition of the customer and the benefits to other ratepayers.
2. The maximum term of the financing/leasing arrangement will be seven years.
3. The target average customer simple payback for energy efficiency measures will be approximately four years, with no measure exceeding a seven year simple payback.

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4. PSNH would arrange for financing/leasing.
5. In addition to the costs currently eligible for recovery under ESP, as approved in Docket No. DE 92-028 but subject to the qualification discussed below, the following additional costs are allowed for recovery as a C&LM expenditure:
 - a. the cost of the financing subsidy, including billing costs (if required),
 - b. the cost of performance guarantees (if required),
 - c. administrative costs associated with the collection and review of customer credit worthiness information and the preparation of formal financial agreements, filing fees, etc., and
 - d. the cost of any defaulted C&LM loans or subsidies, or a contingency reserve for

potential delinquencies and their resulting legal fees, etc.

The Parties agree that PSNH will continue to employ the methodology for recruiting customers into the ESP program approved by the Commission in Docket No. DE 92-028 and collect C&LM related Lost Fixed Cost Revenues according to the method approved in the settlement in Docket No. DE 92-028. With regard to vulnerable

⁷⁽⁷³⁾ customers, recovery of Lost Fixed Cost Revenues will be requested from the Commission on a case-by-case basis depending on the circumstances associated with each customer's situation. That notwithstanding, the Parties agree that participants in PSNH's financing/leasing and other C&LM programs must remain full requirements customers for the term of the agreements. If some customers choose not to remain full requirements PSNH customers, then all costs associated with their program participation shall be re-paid to PSNH (including the value of any interest buy-down) and the proceeds re-invested in C&LM programs. Finally, the Parties agree that PSNH retains the right to seek an incentive on C&LM investments that provide extraordinary benefits to ratepayers.

The Parties understand that the implementation of the financing/leasing ESP component would be subject to review and revision by various regulatory approvals, including the Securities and Exchange Commission (SEC). The Parties further understand that any state building activity would be funded on the basis of a 32% allocation from residential funds and 68% from Commercial and Industrial (C&I) funds.

In light of the relatively untried nature of the financing/leasing approach, the Parties agree that PSNH will fund independent consultants pursuant to the budget set forth in Attachment 1. The independent consultants would: a) participate with Company personnel in reviewing the design of the financing/leasing component of the ESP program and in reviewing the methods established to monitor its implementation; b) review the implementation process in order to address the monitoring and evaluation issues outlined in Attachment 2; and c) advise the CLF and the other non-utility parties, with respect to financing/leasing issues. The parties anticipate that the internal cost of support for the independent consultants' participation are not likely to be substantial, or exceed \$20,000.

(d.) Avoided Costs Calculation

The Parties agree that the avoided energy costs will be calculated using a Combined System dispatch. For purpose of this settlement only, the parties agree to use the avoided capacity costs as filed in PSNH's 1992 LCIRP for the 1998-2026 period. The capacity value for 1992-95 will be 5\$/kW-yr and 10\$/kW-yr for the

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1996-1997 period. These avoided energy and capacity costs are contained in Attachment 3. The Parties agree to defer the issue of the cost of slice-of-system capacity transfer as the value of avoided generation costs since this is somewhat related to the issue of system planning which the Parties agree, in Section B, to defer until the 1994

LCIRP filing. In addition, the Company agrees to provide appropriate transmission and distribution line loss credits to existing and proposed independent power production facilities once the interconnection voltage levels have been determined. The Parties further agree that appropriate credits also be used in cost-effectiveness studies involving demand-side and independent power production resources. These loss credits are shown in Attachment 4 to this Settlement.

(e.) Merrimack Unit 2 CAAA Compliance

Until the 1994 LCIRP is filed and subject to appropriate confidentiality agreements, the Company agrees to supply the Parties with pertinent information and upon request existing back-up documents in its possession, relating to the status of Merrimack Unit 2 CAAA compliance efforts that includes, but is not limited to, the status of negotiations and/or agreements with the EPA and/or other parties, and costs and emissions data relating to compliance options, and any other pertinent information on November 1, 1993, February 1, 1994 and whenever new information becomes available that has an impact on rates or resources.

(f.) Post Sharing Agreement

For planning purposes, the 1992 LCIRP assumes that the Sharing Agreement will remain in effect after the present term ends in 2002. The Parties agree that the 1996 LCIRP will begin the process of evaluating alternate arrangements and provide information on the major factors that are likely to determine the outcome of that evaluation.

(g.) Requirements for 1994 LCIRP Filing

In addition to the above agreements, the Parties further agree that PSNH's 1994 LCIRP, to be filed April 30, 1994, will include reports or discussions on:

1. The PSNH and Combined System load forecasts including a discussion of NU/PSNH's integrated modeling practices and results. This will include (but not be limited to) a comparison of PSNH's class sales forecasts in the 1994 LCIRP to those in the current filing, and a discussion of the degree to which any differences are due to changes in methodology. Fifteen-year forecast levels and growth rates in accordance with order No. 19,052 will also be included in the filing;
2. The development of loss factors for various voltage levels and all relevant work papers used to develop those costs;
3. SO₂ allowance costs included in fossil fuel prices when calculating avoided costs and performing production cost simulations;
4. The development and use of appropriate avoided transmission and distribution capacity costs for inclusion in economic screening analyses for C&LM and independent power production resources as well as avoided costs;
5. The optimality of existing PSNH and Combined System generation resources and the development and presentation of

a system expansion plan that meets future load growth at least cost. In addition, the Company will file an updated system expansion plan during the 1994 LCIRP review process if significant

changes occur to compliance strategies and costs due to air emission modeling efforts that are expected to be ongoing in 1994;

6. The PSNH transmission system, its utilization and role in the bulk power system. This discussion will include PSNH's planned transmission system additions for the next 10 years along with an explanation of the reasons for any major capital investments. The transmission assessment report will also include a discussion of the effect on transmission planning of FERC's pursuit of open access and competition in the generation market; and

7. The Energy Policy Act of 1992 and its impact on electric utility resource planning. In particular, the 1994 LCIRP will include a discussion on the planning implications of any DE 93-071 determination on the reliability and/or cost of long-term purchased power supplies.

(h.) Miscellaneous Provisions

1. Other than as expressly stated herein, the making of this Settlement establishes no principles or precedents and shall not be deemed to foreclose any party from making any contention in any future proceeding or investigation, including future LCIRP proceedings affecting the Company.

2. Other than as expressly stated herein, the acceptance of this Settlement by the Commission shall not in any respect constitute a determination by the Commission as to the merits of any issue in any subsequent proceeding.

3. This Settlement is the product of settlement negotiations. The content of those negotiations shall be privileged and all previous and/or draft offers of settlement shall be without prejudice to the position of any party or participant presenting such offer.

4. This Settlement is submitted on the condition that it be approved in full by the Commission and on the condition that if the Commission does not approve the Settlement in its entirety, the Settlement shall be deemed withdrawn and shall not constitute a part of the record in this or any proceeding or be used for any purpose.

5. This Settlement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be deemed an original thereof for all purposes, but all such counterparts shall together constitute but one and the same instrument.

July 30, 1993

Respectfully submitted,

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE By its attorney, s/ Thomas B. Getz
Thomas B. Getz Corporate Counsel

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NEW HAMPSHIRE PUBLIC UTILITIES

COMMISSION By its attorney,

s/ Susan Chamberlin Susan Chamberlin Eight Old Suncook Road Building One Concord, NH
03301-5185

STATE OF NEW HAMPSHIRE OFFICE OF CONSUMER ADVOCATE By its attorney, s/
Michael W. Holmes Michael W. Holmes, Esq. Eight Old Suncook Road Building One Concord,
NH 03301-5185

CONSERVATION LAW FOUNDATION OF NEW ENGLAND, INC. By its attorney, s/
Jeanne Sole Jeanne Sole' 62 Summer Street Boston, MA 02110-1008

s/ George E. Sansoucy George E. Sansoucy, PE 260 Ten Rod Road Rochester, NH 03867

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Independent Consultant Funding Levels

- 1) Input to program design -
Skip Schick/BCI
- 2) Implementation review (first year) -
Skip Schick/BCI
Travel (2 trips/prorate share)
- 3) Evaluation design & review -
Ken Keating
BCI
- 4) Coordination and oversight -
Joseph Chaisson
- 5) Other direct (telephone, etc.)
- 6) Contingency
Skip Schick/BCI
Ken Keating

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ATTACHMENT 2

Monitoring and Evaluation Issues

1) Can substantial customer efficiency improvements be facilitated by a well designed utility DS&M program that provides financing and not direct incentive payments to overcome financial barriers to customer investment?

2) What are the full costs of delivering such as program to include:

- a) All costs of providing financing, both administrative and financial;
- b) All other utility costs; and
- c) All customer costs.

3) If such a program can facilitate some efficiency improvements, how do these compare to those that can be facilitated by a program offering direct incentive payments?

- a) Use the Energy Action Program (EAP) in Connecticut as the comparison program;
- b) Address comprehensiveness;
- c) Address measure and "package" paybacks;

d) Address measure and "package" of installation costs.

4) To the extent possible given the limited number of customers treated, assess whether there are significant variations in response to a financing program among customer types within the targeted size customer.

ATTACHMENT 3

[Graphic(s) below may extend beyond size of screen or contain distortions.]

1992
NORTHEAST UTILITIES SYSTEM
LONG TERM AVOIDED COSTS
INTERCONNECTIONS AT THE GENERATION
BUSBAR VOLTAGE LEVEL
(REFERENCE DRI FUEL FORECAST)

YEAR

1993
1994
1995
1996
1997
1998
1999
2000
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2003
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2023
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2025
2026

NOTES:

(1) PEAK HOURS ARE DEFINED AS HOURS 7 A.M. TO 11 P.M. DURING WEEKDAY PERIODS
OFF-PEAK HOURS ARE DEFINED AS ALL OTHERS

ATTACHMENT 4

[Graphic(s) below may extend beyond size of screen or contain distortions.]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
LOSS FACTORS BY VOLTAGE LEVEL

Service Voltage Level

Secondary

Primary

Transmission

FOOTNOTES

¹The Initial System comprises the generation and transmission resources of The Connecticut Light & Power, Western Massachusetts Electric Company, and Holyoke Water Power Company. The utilization and development of those resources for the benefit of all Initial System companies and the allocation of the resulting costs are governed by a Generation and Transmission Agreement. Because resource decisions are made to minimize Initial System costs and those costs are allocated based on need, there is no incentive for individual operating companies to pursue separate system planning.

²The allocation of synergies between the two systems is governed by the terms of the Sharing Agreement. For example, the synergy resulting from the more efficient utilization of the generating resources of the two systems is divided equally between the two systems.

³The possible retirement or repowering of Merrimack 2 in 1999 and its cost and rate implications for PSNH were not addressed in the 1992 LCIRP filing, however some information was provided in response to subsequent data requests.

⁴Current estimates indicate that the retirement of Merrimack 2 in 1999 and its replacement with slice-of-system capacity transfers will cost PSNH approximately \$50 million annually in additional power expenses (less O&M reductions related to its retirement). In addition, the retirement of Merrimack 2 would require a \$20 to \$30 million capital expenditure to rectify a transmission reliability problem related to the retirement of the plant.

⁵As described in response to Data Request NSTF-05, STAFF-001, dated February 23, 1993.

⁶The cost of this purchase will be based on the cost methodology outlined in Attachment A to the sharing agreement.

⁷Vulnerable customers will be defined as those customers for whom PSNH petitions the Commission for approval of special considerations, i.e., special contracts, etc.

=====

NH.PUC*09/09/93*[75193]*78 NH PUC 495*Lakeland Management Company, Inc.

[Go to End of 75193]

Re Lakeland Management Company, Inc.

DR 91-058
Order No. 20,955
78 NH PUC 495

New Hampshire Public Utilities Commission

September 9, 1993

Report and Order Resolving July 16, 1993 Show Cause Hearing.

Appearances: Mark Mooney for Lakeland Management Company, Inc., and Amy Ignatius, Esq., for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On June 30, 1992, the New Hampshire Public Utilities Commission (Commission) issued Order No. 20,525 granting a permanent rate increase to Lakeland Management Systems, Inc. (Lakeland or Company) and requiring the Commission Staff (Staff) and Lakeland to address water pressure deficiencies.

On August 3, 1992, the Commission issued Order No. 20,556 accepting a capital improvement program. The capital improvement consisted of a booster pump station and associated mains to increase pressure to the entire Granite Ridge portion of Lakeland's water system. Lakeland completed the booster station in the fall of 1992 but failed to tie 2 of the 26 Granite Ridge customers into the new high pressure system.

Lakeland indicated to Staff in December, 1992, that the company would tie those two units into the high pressure system in the spring. On May 24, 1993, and again on June 9, 1993, a Granite Ridge customer wrote to the Commission that he was still not tied into the high pressure system. In response, Staff requested Lakeland submit a proposed schedule for the tie-in of the two units, to be completed no later than July 31, 1993.

In written and verbal communication with Staff, Lakeland indicated that it was not willing to tie-in the two remaining units until fall and may in fact now oppose tying in the units at all.

On June 22, 1993, the Commission issued Order No. 20,878, ordering Lakeland to appear before the Commission on July 16, 1993 to show cause why the company should not be required to tie-in the two remaining Granite Ridge units to the new high pressure system by July 31, 1993.

II. *AGREEMENT BETWEEN STAFF, THE COMPANY AND THE HOMEOWNERS*

Prior to the hearing, Staff, Lakeland and concerned homeowners discussed the best means of

connecting the final units. Mr. Caniber, a customer, objected to the proposed line going through his back yard. Staff, the Company, and the homeowners agreed that the Company should excavate along the main to locate the existing service connections and connect the existing service into the high pressure service at that point.

The homeowners agreed to let the Company dig within its ten foot easement on either side of the main but no further. Since the issue of who has authority to dig within the Condominium Association's common area is beyond the Commission's jurisdiction, the Company agreed to discuss the procedure with

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the homeowners in good faith, should it become necessary to dig beyond the Company's easement.

III. COMMISSION ANALYSIS

Where Lakeland agreed to begin the work needed to tie in the remaining two units on July 21, 1993, and there is agreement between Staff, the Company and the homeowners as to the method used to achieve the tie-ins, we find that Lakeland is required to tie-in the two remaining Granite Ridge units into the new high pressure system by July 31, 1993.

After the hearing but before we issued this Report and Order, Lakeland notified the Commission that it had successfully completed the remaining tie-ins on July 21, 1993.

Our order will issue accordingly.

Concurring: September 9, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that where Lakeland successfully completed the tie-in of the two remaining Granite Ridge units, the Show Cause hearing is resolved.

By order of the New Hampshire Public Utilities Commission this ninth day of September, 1993.

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NH.PUC*09/09/93*[75194]*78 NH PUC 496*Forest Edge Water Company

[Go to End of 75194]

Re Forest Edge Water Company

DR 93-100
Order No. 20,956
78 NH PUC 496

New Hampshire Public Utilities Commission

September 9, 1993

Suspension Order and Establishment of Prehearing Conference.

BY THE COMMISSION:

ORDER

On August 12, 1993, Forest Edge Water Company (Petitioner) filed revised rate schedules which reflect an increase in annual revenues of \$3,500.00 or 50% over its current level of annual revenues; and

WHEREAS, a thorough investigation is necessary prior to making a decision thereon; it is hereby

ORDERED, that the proposed revenue increase to NHPUC #1 Water Tariff for Forest Edge Water Company is hereby suspended; and it is

FURTHER ORDERED, that a prehearing conference to address motions to intervene and to establish a procedural schedule for this docket be held before the Public Utilities Commission at its offices at 8 Old Suncook Road, Building #1, Concord, New Hampshire at ten o'clock in the forenoon on October 26, 1993; and it is

FURTHER ORDERED, that said petitioner notify all persons of the opportunity to be heard at said prehearing conference by: (1) Causing an attested copy of this Order to be published once in a newspaper having general circulation in that portion of the state in which operations are conducted, said publication to be no later than October 6, 1993; (2) Sending a summary of its proposed rate change and a copy of this Order, in accordance with N.H. Admin. Rule Puc 1601.05(j), to all known current and prospective customers by first class U.S. Mail, postage prepaid, and postmarked on or before October 6, 1993 ; and (3) Documenting compliance with these notice provisions by affidavit(s) to be filed with the commission on or before October 26 , 1993; and it is

FURTHER ORDERED, that pursuant to RSA 541-a:17, and N.H. Admin. Rule Puc 203.202, any party seeking to intervene in the proceeding must submit a motion to intervene with a copy to the petitioner, on or before October 22 , 1993.

By order of the New Hampshire Public Utilities Commission this ninth day of September, 1993.

=====

NH.PUC*09/09/93*[75195]*78 NH PUC 497*North Country Water Supply, Inc.

[Go to End of 75195]

Re North Country Water Supply, Inc.

DE 92-076
Order No. 20,957
78 NH PUC 497

New Hampshire Public Utilities Commission

September 9, 1993

Report and Order Addressing Permanent Rates and Other Matters.

Appearances: Beverly LaCourse Hayden and Stanley H. Oliver on behalf of North Country Water Supply, Inc.; Susan W. Chamberlin, Esq. on behalf of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On April 16, 1992, North Country Water Supply, Inc. (North Country) filed a request with the Commission for permission to operate a public water utility in a limited portion of the Town of Strafford, and to establish permanent rates for the system.

Pursuant to an Order of Notice issued on May 18, 1992, a prehearing conference was held on June 9, 1992, at which North Country and the Commission Staff (Staff) agreed upon a schedule to govern the Commission's investigation into North Country's request for a franchise and permanent rates. *See*, RSA 374:22 and 26 and RSA chapter 378. On June 17, 1992, the Commission issued Report and Order No. 20,512 adopting the agreed upon procedural schedule.

On August 24, 1992, the procedural schedule was revised by letter of the Executive Director rescheduling the hearing on the issue of a franchise and temporary rates to October 1, 1992, due to North Country's failure to attend a scheduled settlement conference. At the October 1, 1992, hearing North Country and the Staff presented a stipulation on both issues of the franchise and temporary rates based on financial documentation provided to the Staff on August 26, 1992.

On November 23, 1992, the Commission issued Report and Order No. 20,667 accepting the stipulation granting the requested franchise to North Country and establishing a temporary rate of \$307 per year, per customer, to be collected in arrears on a monthly basis as per the stipulation.

Subsequently, the Commission modified the procedural schedule a second time to accommodate North Country. On February 12, 1993, the Staff forwarded a memorandum to the Commissioners requesting a hearing be established for North Country to show cause why it should not be fined \$500 for failure to adhere to the modified procedural schedule. Specifically, Staff noted that North Country had not filed testimony indicating the requested permanent rate and the supporting justification for such a rate, had not filed supporting documentation for its investments in the water distribution system, and had filed no schedules with the necessary documentation and calculations to develop a permanent rate.

In response to the Staff memorandum the Commission, on March 15, 1993, issued Order No.

20,791, requiring North Country to appear at the Commission on April 13, 1993, to show cause why it should not be fined for failure to follow the modified procedural schedule, thereby, failing to provide the Commission with the information necessary to fulfill its statutory obligation to set "just and reasonable" rates.

On April 13, 1993, North Country appeared at the Commission for the show cause hearing with a permanent rate request containing "the minimum requirements set forth in 20,791." *Re North Country Water Supply Company, Inc.*, Order No. 20,823 (April 22, 1993). Because North Country had complied with the show cause order, the Commission issued Order No. 20,823 waiving the \$500 fine on the condition North Country comply with a fourth procedural schedule delineated in the Order.

Pursuant to the procedural schedule the Staff propounded a series of questions to North Country relative to its April 13, 1993 filing. The Commission heard the merits of the petition on July 1, 1993.

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II. POSITIONS OF NORTH COUNTRY AND STAFF

A. Introduction

North Country and Staff came to agreement on a number of issues related to operation and maintenance expenses and the Return on Equity.

The issues in dispute are the characterization and ratemaking treatment of a \$12,000 note from Meredith Tilton, individually and as executrix of the estate of Richard J. Maloney (Tilton Note), to the company from whom North Country purchased the distribution system and the land on which the wells and pumphouse are located; the percentage of the acquisition price allocable to the land; the ratemaking treatment of a Current Use tax penalty currently under appeal to the New Hampshire Board of Land and Tax Appeals; whether North Country must file a plan for metering all of the customers on the system; and whether billing should be on a monthly or quarterly basis.

B. North Country

North Country's characterization of the \$12,000 Tilton Note is unclear from its petition and testimony. However, schedules accompanying the petition indicate that North Country treated the Tilton Note as long term debt with an annual percentage rate of 10.03%.

In regard to the allocation of the \$12,000 purchase price between the distribution system and the land, North Country takes the position that the entire \$12,000 should be allocated to the land on which the wells and pumphouse are located. North Country conceded that the tax stamps affixed to the deed did not support this position, but stated that it was not aware of the ratemaking consequences of declaring the minimum consideration to the New Hampshire Department of Revenue Administration (DRA) and would now go back and amend the declaration of consideration to \$12,000 to gain the most advantageous ratemaking treatment.

North Country requested that the \$9,690 Current Use tax penalty be amortized over a five year period.

North Country takes the position that billing on a quarterly basis, as proposed by Staff, could lead to uncollectible revenues due to the relative amount of money due and owing before North Country would become aware of a bad account or changes in ownership of the serviced properties.

In regard to the Staff request that the Commission order North Country to file a plan for metering all of the customers on the system, North Country contends that metering would not be economically efficient, given the initial capital outlay for the meters themselves.

C. Commission Staff

Staff provided the Commission four alternative means of characterizing the Tilton Note, including treating the note as equity, a 0% interest long term note, and hybrids of the two.

Staff included no portion of the \$12,000 purchase price in ratebase because the deed itself made no allocation between the distribution system and the land, and the tax stamps affixed to the deed indicated that the consideration for the land was somewhere between \$0 and \$4,000. Thus, Staff believed that any allocation between \$0 and \$4,000 by Staff would be arbitrary.

Staff did not assign any ratemaking value to the \$9,600 Current Use tax penalty because North Country had not actually paid the tax and had filed an appeal of the penalty and the land's assessed value with the New Hampshire Board of Land and Tax Appeals.

Staff argued that North Country must file a plan to meter all of the customers on the system, and a schedule for implementation of meter installations. Staff based this position on N.H. Admin. Rules, Puc 603.05.

Finally, Staff recommended that bills be rendered on a quarterly basis in arrears, due to the relatively small amount of each monthly bill and the administrative costs of each billing cycle.

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III. COMMISSION ANALYSIS

Because there are a number of distinct issues for our consideration, we will address each *seriatim*.

A. Characterization of the Tilton Note

The issue relative to the Tilton Note is whether it should be treated as debt or equity, or some hybrid thereof. As was indicated above, the Tilton Note was entered into between North Country and Ms. Tilton for the purchase of the distribution system and the real property necessary to operate the distribution system. The note and the mortgage on the land executed as security for the note provide for monthly payments of \$100 for ten years. There is no provision for interest. Although there is evidence that the monthly payments to Ms. Tilton are made on an erratic basis, we do not believe that we should therefore characterize this debt as a form of equity. This position is further bolstered by the fact that North Country is a subchapter S corporation under the internal revenue code and is, therefore, limited to only one form of equity. Thus, we will treat the note as long term debt with a 0% interest rate for the purpose of computing the weighted cost of capital.

B. Allocation of the Tilton Note

The tax stamps affixed to the deed memorializing the transfer of real property associated with the water distribution system filed in the Strafford County Registry of Deeds indicate that North Country allocated somewhere between \$0 and \$4,000 of the \$12,000 purchase price to real property. Staff argues that it would be arbitrary to assign any value to the real property as there is no rational basis to allocate any value to the land in light of North Country's representation to the DRA.

North Country, on the other hand, argues that it relied on the advice of counsel in signing the Declaration of Consideration which affirmed to the DRA that the consideration paid for the land was between \$0 and \$4,000 and was not aware of the ratemaking consequences of this action. Thus, North Country seeks to allocate 100% of the \$12,000 note as consideration for the water distribution system, and will refile the Declaration of Consideration with the DRA claiming \$12,000 of consideration was paid for the land.

We do not believe it would be appropriate for North Country to refile with the DRA merely to inflate the value of ratebase. *See, for example, Re Mountain High Water and Gas Company*, 76 NH PUC 415 (1991). Nor do we believe it would be arbitrary to assign the maximum possible consideration of \$4,000 to the land based on North Country's and the Town of Strafford's assessments of the value of the land.

We would be remiss, however, to conclude our discussion of this issue at this point, as it would fail to address the true dispute between the Staff and North Country, and could lead to an unjust and unreasonable result.

At the July 10, 1993 hearing, testimony revealed one of the reasons for the delays in the procedural schedule and the essence of the debate over the appropriate amount of the \$12,000 purchase price allocable to real property.

When Stanley Oliver, the principal stockholder of North Country, acquired the water distribution system from Ms. Tilton, he informed the customers of the system that he would seek rate recovery for no more than the \$12,000 he paid for the system. He stated that the customers were currently receiving water service from the deteriorated system he had acquired, and even though he would have to make substantial investments to meet Department of Environmental Services standards to ensure safe and adequate service, customers would see no difference in service when they turn on the tap and, therefore, it would be inequitable to assess them any costs other than the purchase price. *See generally*, Transcript pp. 89-94.

While Mr. Oliver concedes that he has invested far in excess of the \$12,000 purchase price in rebuilding the distribution system, he refuses to supply the invoices to the Commission on the basis of principle, that is, he would be breaking his word to his customers. Thus, Mr. Oliver requests that the \$12,000 purchase price be placed in ratebase

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(thereby requiring an 100% allocation of the purchase price to the land under traditional ratemaking principles) based on his assessment of fairness set forth above.

Staff, while sympathetic to Mr. Oliver's position, would not assign any value to the land and refused to recommend that any items, other than those substantiated with invoices, be placed in ratebase until North Country produces invoices substantiating the value invested in the system.

The Commission, operating through our Staff, must comply with clear legislative mandates for ratemaking. RSA 378:8, provides in pertinent part, that

[w]hen any public utility shall seek the benefit of any order of the commission allowing it to charge and collect rates ... *the burden of [proof]* ... shall be upon such applicant.
(emphasis added)

Furthermore, RSA 378:28 provides, by reference to RSA 378:27, that rates shall be sufficient to yield not less than a reasonable return on the *cost* of the property of the utility used and useful in the public service less accrued depreciation, as shown by the reports of the utility filed with the commission.... (emphasis added)

Thus, North Country bears the burden of establishing the "cost" of the property it has dedicated to the public service. It is not the role of the ratepayer or our Staff to establish this value for the utility. We can not merely place a value on the assets dedicated to the public service on an *ad hoc* basis to satisfy the particular needs or wants of the petitioning utility. To be fair to the ratepayer we must have some basis, some rationale, for setting the rates they will be required by law to pay.

In *Appeal of Richards*, 134 N.H. 148 (1991) the New Hampshire Supreme Court found that RSA 378:7 and :28 require the Commission to employ "traditional ratemaking analysis". *Richards*, 134 N.H. at 159. Under traditional ratemaking analysis, according to the Court, "[r]atebase is defined as 'the amount of money that the utility has invested in capital assets ... that it uses to provide services to its customers'" *Id.*, at 160, (quoting *Appeal of Conservation Law Foundation*, 127 N.H. 606 at 634).

In this case North Country refuses to provide the Commission with invoices to establish the cost basis of its capital assets dedicated to provide service. We will not and cannot, as set forth above, arbitrarily inflate the value of the acquired land or allow a utility to withhold the documents on which ratebase is calculated.

Furthermore, recent amendments to RSA 378:28 require this Commission to make specific findings that those assets placed in ratebase are "prudent" and "used and useful". 1993 N.H. Laws 223:1. Again, without the appropriate substantiating documents, it is difficult to apply these principles.

Finally, in order to carry out our statutory mandate to ensure "safe and adequate service" to the public and to maintain appropriate continuing property records we must have a record of the assets placed in service for the public. While we are sympathetic to Mr. Oliver's stated desire to protect his customers from too large a ratebase, we do not see his goal of protection and the Commission's need to obtain substantiating documents as being incompatible. There is a simple solution: Mr. Oliver must produce invoices substantiating his investment in the system; he may limit the amount included in ratebase to \$12,000, if he so chooses.

For all of these reasons, we direct Mr. Oliver to produce the invoices for those upgrades he

has made to the water distribution system after its acquisition from Ms. Tilton.

C. Current Use Penalty

According to the testimony, the payment of the current use penalty was part of the consideration given by North Country for the

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distribution system and should, therefore, be accounted for in ratebase. While we agree with Staff that the assessed value of the land by the Town of Strafford, on which the current use penalty is based, appears somewhat high, the tax is due and payable by North Country until found otherwise by a forum of competent jurisdiction. Thus, we will include the \$9,600 in ratebase. All revenues derived by North Country from the inclusion of this penalty in ratebase, however, shall be subject to refund should the Board of Land and Tax Appeals lower the assessed value of the land, thereby reducing the penalty.¹⁽⁷⁴⁾ We will direct our Executive Director and Secretary to forward a copy of this Report and Order to the Board of Land and Tax Appeals with a letter of explanation and a request to be kept apprised of any decisions relative to North Country's appeal.

D. Metering

The issue relative to metering is whether North Country should file a plan to meter service to its customers, and if so, would such a plan commit North Country to implementation of metering and a change to metered water usage.

N.H. Admin. Rules, Puc 603.05 (a) provides that;

[a]ll water sold by a utility shall be billed pursuant upon the basis of metered volume sales unless specific commission approval is granted by the commission for unmetered service. Thus, metering is not an absolute requirement. When a utility can justify service on an unmetered basis we will issue an order waiving the requirement. We direct North Country to file no later than one year from the date of this Report and Order, a plan for metering of the water system. North Country will be free at that time to request a waiver of the metering requirement, putting forth the reasons it believes justify such a waiver.

E. Billing

The issue regarding billing relates to the frequency of bills. It is generally our policy to favor more frequent billing, thereby reducing uncollectible revenues and disconnect notices. We will, therefore, allow North Country to bill on a monthly basis as it has requested.

Our order will issue accordingly.

Concurring: September 9, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that North Country Water Supply, Inc. (North Country) shall treat the \$12,000 note from Meredith Tilton as long term debt with a 0% interest rate for the purpose of computing the weighted cost of capital; and it is

FURTHER ORDERED, that North Country assign \$4,000 as consideration to the land purchased by Stanley Oliver as part of the water system; and it is

FURTHER ORDERED, that in accordance with RSA 378:28, we find that the assets placed in ratebase are used and useful and the investments in plant were prudently incurred; and it is

FURTHER ORDERED, that within 30 days of the date of this order, Mr. Oliver shall produce the invoices for all upgrades he has made to the water distribution system after its acquisition from Ms. Tilton; and it is

FURTHER ORDERED, that the \$9,600 current use penalty shall be included in ratebase, and that all revenues derived by North Country from the inclusion of this penalty in ratebase, shall be subject to refund should the Board of Land and Tax Appeals lower the assessed value of the land; and it is

FURTHER ORDERED, that the Executive Director and Secretary shall forward a copy of this Report and Order to the Board of Land and Tax Appeals with a letter of explanation and a request to be kept apprised of any decisions relative to North Country's appeal; and it is

Page 501

FURTHER ORDERED, that within one year of the date of this Report and Order, North Country shall file a plan to meter the system, and at the time of such filing North Country may request a waiver of the metering requirement putting forth any reasons it believes justify such a waiver; and it is

FURTHER ORDERED, that North Country be allowed to bill its customers on a monthly basis.

By order of the Public Utilities Commission of New Hampshire this ninth day of September, 1993.

FOOTNOTES

¹ We would not look favorably on any withdrawal of the appeal to the Board of Land and Tax Appeals, as such a withdrawal could have significant ratemaking ramifications.

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NH.PUC*09/09/93*[75196]*78 NH PUC 502*Granite State Electric

[Go to End of 75196]

Re Granite State Electric

Additional respondents: Massachusetts Electric Company, The Narragansett Electric Company, and New England Power Company

DE 93-141
Order No. 20,958
78 NH PUC 502

New Hampshire Public Utilities Commission

September 9, 1993

Order Approving NISI the Memorandum of Understanding Regarding the Filing and Review of Integrated Resource Plans.

BY THE COMMISSION:

ORDER

WHEREAS, on July 21, 1993, Granite State Electric Company, together with its affiliated companies Massachusetts Electric Company, The Narragansett Electric Company (NEES Retail Companies) and New England Power Company (NEP) filed a Memorandum of Understanding (MOU) that sets forth a coordinated procedure for planning reviews and resource approval among the New Hampshire Public Utilities Commission (Commission), the Rhode Island Public Utilities Commission and the Massachusetts Department of Public Utilities, and requested the Commission's approval of the MOU as it applies to New Hampshire; and

WHEREAS, each State Commission has in place independent processes through which it investigates the integrated resource plans and decisions of NEP and the NEES Retail Company under its jurisdiction; and

WHEREAS, the State Commissions, the NEES Retail Companies, and NEP believe that plans and resource decisions for a multi- jurisdictional company can be implemented most effectively under a process of review that is coordinated, consensual and consistent among the several states; and

WHEREAS, the only effect of the MOU on the review process in New Hampshire as originally set forth in *Re Public Service Company of New Hampshire, et. al.*, 73 NH PUC 117 (1988) and subsequently codified in RSA 378:38 and :39 is to commit the Commission to a timeline for its consideration that is consistent across the three states; and

WHEREAS, the Commission finds that the schedule for review outlined in the MOU is reasonable and adequate for the investigation adopted by the Commission and mandated by the legislature; it is therefore,

ORDERED *NISI*, that the MOU be, and hereby is, approved; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules PUC 203.01, the company cause an attested copy of this Order *NISI* to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than September 20, 1993 and it is to be documented by affidavit filed with this office on or before October 7, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than October 5, 1993; and it is

FURTHER ORDERED, that this Order *NISI* will be effective thirty days from the date of this order, unless the commission provides otherwise in a supplemental order prior to the effective date. By order of the New Hampshire Public Utilities Commission this ninth day of September, 1993.

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NH.PUC*09/09/93*[75197]*78 NH PUC 503*Public Service Company of New Hampshire

[Go to End of 75197]

Re Public Service Company of New Hampshire

DR 93-149

Order No. 20,959

78 NH PUC 503

New Hampshire Public Utilities Commission

September 9, 1993

Report and Order Accepting the Procedural Schedule.

Appearances: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Michael W. Holmes, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; Susan W. Chamberlin, Esq. on behalf of the Commission Staff.

BY THE COMMISSION:

I. PROCEDURAL HISTORY

On August 10, 1993, Public Service Company of New Hampshire (PSNH) filed a petition with the New Hampshire Public Utilities Commission (Commission) to open a proceeding on its Fuel and Purchased Power Adjustment Clause for effect December 1, 1993 through May 31, 1993 (FPPAC). On August 18, 1993, the Commission issued an Order of Notice scheduling a prehearing conference for September 7, 1993.

II. POSITION OF STAFF AND THE PARTIES

At the prehearing conference the Commission Staff (Staff) and the parties agreed to a procedural schedule as stated below.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

September 7, 1993	Prehearing Conference
September 14, 1993	PSNH files Testimony
September 23, 1993	Tech session with all Company witnesses. Staff secretary takes down oral data requests. Nuclear outages discussed in concurrent session, if necessary.
September 24, 1993	Staff faxes typed data requests to PSNH

and OCA for verification.

September 28, 1993 Remaining data requests from Staff and Intervenor, faxed.

September 29, 1993 PSNH notification of problematic data requests.

October 8, 1993 PSNH files responses to Staff's and Intervenor's data requests.

October 14, 1993 Technical session with Company witness to attend on an-as-needed basis. Staff secretary takes down oral data requests.

October 15, 1993 Staff faxes requests to company.

October 21, 1993 PSNH responses to October 14 data requests and ALL outstanding data requests due.

November 1, 1993 Staff and Intervenor testimony filed.

November 4, 1993 at noon PSNH files written rebuttal testimony.

November 5, 1993 Joint Statement of issues filed.

November 8, 9, 10 & 12, 1993 Hearing on the Merits.

November 15, 1993 Last transcript delivered.

November 22, 1993 Briefs filed.

November 29, 1993 Commission meeting.

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There were no motions to intervene. In light of recent legislation granting nonlawyers and lawyers of other jurisdictions the ability to appear before the Commission, PSNH stated that Mr. Robert Knickerbocker, Esq. and Mr. Gerald Garfield, Esq., would assist him in the proceedings.

III. COMMISSION ANALYSIS

The Commission finds that the above stated procedural schedule as agreed to by PSNH, the OCA, and Staff is reasonable and it is approved. We will consider any requests to modify the schedule and the reasons for such requests if and when they are filed.

Our order will issue accordingly.

Concurring: September 9, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that the procedural schedule set forth in the foregoing Report is approved.

By order of the New Hampshire Public Utilities Commission this ninth day of September, 1993.

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NH.PUC*09/10/93*[75198]*78 NH PUC 504*Enterprise Telcom of New Hampshire, Inc.

[Go to End of 75198]

Re Enterprise Telcom of New Hampshire, Inc.

DE 93-051
Order No. 20,960
78 NH PUC 504

New Hampshire Public Utilities Commission
September 10, 1993

Order *Nisi* Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On March 2, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from Enterprise Telcom Services, Inc., since incorporated in New Hampshire as Enterprise Telcom of New Hampshire, Inc. (Enterprise), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze competition during the two-year Trial Period (October 1, 1993 to September 30, 1995) described in Commission Report and Order No. 20,916 (August 2, 1993); and

WHEREAS, the Commission finds that it is in the public good to allow competitors to offer intrastate long distance service during the Trial Period; and

WHEREAS, the Commission finds that Enterprise demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to this petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 5, 1993; and it is

FURTHER ORDERED, that the petitioner effect notification by publishing an attested copy of the Notice of Conditional Approval attached to this order once in a newspaper having general statewide circulation, publication to be no later than September 20, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before October 5, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 363-A:1, et seq. Enterprise shall pay all assessments levied upon it by the Commission based on the amount of gross revenues received as a result of doing business in New Hampshire; and it is

FURTHER ORDERED, that Enterprise may offer as a public utility, telecommunication services for the service territory of the entire State of New Hampshire; and it is

FURTHER ORDERED, *NISI*, that Enterprise hereby is granted authority to offer intrastate long distance services in the state of New Hampshire subject to the following conditions:

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1. that the services shall be offered only by approved tariffs, as subsequently amended, and shall be offered only on an interim basis until completion of the Trial Period, at which time the authority granted herein may be revoked or continued on the same or different basis;

2. that Enterprise shall file tariffs for new services and changes in approved services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;

3. that Enterprise shall notify the Commission of a change in rates of approved services to be charged the public within one day after offering the service at rates other than the rates on file with the Commission;

4. that Enterprise is exempt from NH Admin. Rules, Puc 406.03 Accounting Records; Puc 407 Forms required of All Telephone Utilities; and Puc 409 Uniform System of Accounts for Telecommunications Companies;

5. that Enterprise shall maintain its books and records in accordance with Generally Accepted Accounting Principles;

6. that Enterprise shall file each calendar year an Annual Report, consisting of: a Balance Sheet and Statement of Operations and an Information Sheet, reflecting to whom the N.H. Utility Assessment should be mailed and a Listing of Corporate Officers and Titles;

7. that Enterprise shall be subject and responsible for adhering to all statutes and administrative rules including those related to quality and terms and conditions of service, disconnections, deposits and billing, except those specifically waived herein;

8. that Enterprise shall be subject to all reporting requirements contained in RSA 374:13-19 and any filing or reporting requirements imposed by the Commission in this or subsequent orders;

9. that Enterprise shall compensate the appropriate Local Exchange Company for all originating and terminating access used by Enterprise pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies;a) b)

10. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

11. that during the Trial Period Enterprise shall within 60 days following the end of calendar

quarter, report on a confidential basis, except where noted, monthly statistics, for each month the service is offered, the following information:

a. For each intrastate toll service offered:

(1) number of subscribers in NH who have intrastate usage will be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

(2) intrastate minutes of use;

(3) intrastate revenue;

(4) type of access arrangement used;

(5) for services that use different access arrangements (e.g. SDN) the percentage of use relative to each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

(6) whether the service is residential or business or both. Item a(6) is not confidential.

b. On an aggregate basis, intrastate minutes and access charges actually paid to each LEC;

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c. The intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and for special access arrangements;

d. The number of interstate and intrastate special access arrangements stated by channel capacity;

e. The intrastate conversation minutes of use terminated, reported separately by service, for switched access arrangements, and for special access arrangements;

f. As a percentage of total intrastate conversation minutes of use, the amount of intrastate traffic that was both originated and terminated over switched access;

g. For each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

(1) for non-800 services, originating outbound minutes of use;

(2) for 800 services, terminating inbound minutes of use;

(3) average call duration;

(4) type of access arrangement used. Item g(4) is not confidential;

h. Percentage Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC); and it is

FURTHER ORDERED, that nothing contained in this order shall be construed to allow Enterprise to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that Enterprise file a compliance tariff before beginning operations in accordance with NH Admin. Rules, Puc PART 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective October 8, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this tenth day of September, 1993.

Notice of Conditional Approval of Enterprise Telcom of New Hampshire To Do Business as Telecommunications Utility in the State of New Hampshire

On March 2, 1993, Enterprise Telcom of New Hampshire (Enterprise) of filed with the New Hampshire Public Utilities Commission (Commission) a petition to do business as a telecommunications utility in the State of New Hampshire, specifically to provide intrastate long distance telecommunications services. Enterprise, a New Hampshire corporation, is affiliated with Enterprise Telcom Services, Inc., a Delaware corporation.

In Order No. 20,960, the Commission granted Enterprise conditional approval to operate as of October 8, 1993, subject to the right of the public and interested parties to comment on Enterprise or its operations before the order becomes final.

For copies of the petition or Commission order granting conditional approval, please contact the Commission's Executive Director and Secretary at (603) 271-2431, or as noted below. Anyone interested in commenting on Enterprise's petition to do business in the State should submit written comments no later than October 5, 1993 to:

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission 8 Old Suncook Road Concord, New Hampshire 03301

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NH.PUC*09/10/93*[75199]*78 NH PUC 507*Hertz Technologies of New Hampshire, Inc.

[Go to End of 75199]

Re Hertz Technologies of New Hampshire, Inc.

DE 93-080

Order No. 20,961

78 NH PUC 507

New Hampshire Public Utilities Commission

September 10, 1993

Order *Nisi* Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On May 12, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from Hertz Technologies of New Hampshire, Inc., (Hertz), an affiliate of The Hertz Corporation, a Delaware corporation, for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze competition during the two-year Trial Period (October 1, 1993 to September 30, 1995) described in Commission Report and Order No. 20,916 (August 2, 1993); and

WHEREAS, the Commission finds that it is in the public good to allow competitors to offer intrastate long distance service during the Trial Period; and

WHEREAS, the Commission finds that Hertz demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to this petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 5, 1993; and it is

FURTHER ORDERED, that the petitioner effect notification by publishing an attested copy of the Notice of Conditional Approval of this Order once in a newspaper having general statewide circulation, publication to be no later than September 20, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before October 5, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 363-A:1, et seq. Hertz shall pay all assessments levied upon it by the Commission based on the amount of gross revenues received as a result of doing business in New Hampshire; and it is

FURTHER ORDERED, that Hertz may offer as a public utility, telecommunication services for the service territory of the entire State of New Hampshire; and it is

FURTHER ORDERED, *NISI*, that Hertz hereby is granted authority to offer intrastate long distance services in the state of New Hampshire subject to the following conditions:

1. that the services shall be offered only by approved tariffs, as subsequently amended, and shall be offered only on an interim basis until completion of the Trial Period, at which time the authority granted herein may be revoked or continued on the same or different basis;

2. that Hertz shall file tariffs for new services and changes in approved services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;

3. that Hertz shall notify the Commission of a change in rates of approved services to be charged the public within one day after offering the service at rates other than the rates on file with the Commission;

4. that Hertz is exempt from NH Admin. Rules, Puc 406.03 Accounting Records; Puc 407

Forms Required of All Telephone Utilities; and Puc 409 Uniform System of Accounts for Telecommunications Companies;

5. that Hertz shall maintain its books and records in accordance with Generally Accepted Accounting Principles;

6. that Hertz shall file each calendar year an Annual Report, consisting of: a Balance

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Sheet and Statement of Operations and an Information Sheet, reflecting to whom the N.H. Utility Assessment should be mailed and a Listing of Corporate Officers and Titles;

7. that Hertz shall be subject and responsible for adhering to all statutes and administrative rules including those related to quality and terms and conditions of service, disconnections, deposits and billing, except those specifically waived herein;

8. that Hertz shall be subject to all reporting requirements contained in RSA 374:13-19 and any filing or reporting requirements imposed by the Commission in this or subsequent orders;

9. that Hertz shall compensate the appropriate Local Exchange Company for all originating and terminating access used by Hertz pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies;a) b)

10. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

11. that during the Trial Period, Hertz shall within 60 days following the end of calendar quarter, report on a confidential basis, except where noted, monthly statistics, for each month the service is offered, the following information:

a. For each intrastate toll service offered:

(1) number of subscribers in NH who have intrastate usage will be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

(2) intrastate minutes of use;

(3) intrastate revenue;

(4) type of access arrangement used;

(5) for services that use different access arrangements (e.g. SDN) the percentage of use relative to each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

(6) whether the service is residential or business or both. Item a.(6) is not confidential.

b. On an aggregate basis, intrastate minutes and access charges actually paid to each LEC;

c. The intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and for special access arrangements;

d. The number of interstate and intrastate special access arrangements stated by channel

capacity;

e. The intrastate conversation minutes of use terminated, reported separately by service, for switched access arrangements, and for special access arrangements;

f. As a percentage of total intrastate conversation minutes of use, the amount of intrastate traffic that was both originated and terminated over switched access;

g. For each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

(1) for non-800 services, originating outbound minutes of use;

(2) for 800 services, terminating inbound minutes of use;

(3) average call duration;

(4) type of access arrangement used. Item g.(4) is not confidential;

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h. Percentage Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC); and it is

FURTHER ORDERED, that nothing contained in this Order shall be construed to allow Hertz to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that Hertz file a compliance tariff before beginning operations in accordance with NH Admin. Rules, Puc PART 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective October 8, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this tenth day of September, 1993.

Notice of Conditional Approval of Hertz Technologies of New Hampshire, Inc. To Do Business as a Telecommunications Utility in State of New Hampshire

On May 12, 1993, Hertz Technologies of New Hampshire, Inc. (Hertz) filed with the New Hampshire Public Utilities Commission (Commission) a petition to do business as a telecommunications utility in the State of New Hampshire, specifically to provide intrastate long distance telecommunications services. Hertz, a New Hampshire corporation, is affiliated with The Hertz Corporation, a Delaware corporation.

In Order No. 20,961, the Commission granted Hertz conditional approval to operate as of October 8, 1993 subject to the right of the public and interested parties to comment on Hertz or its operations before the Order becomes final.

For copies of the petition or Commission order granting conditional approval, please contact the Commission's Executive Director and Secretary at (603) 271-2431, or as noted below. Anyone interested in commenting on Hertz's petition to do business in the State should submit written comments no later than October 5, 1993 to:

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission 8 Old
Suncook Road Concord, New Hampshire 03301

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NH.PUC*09/10/93*[75200]*78 NH PUC 509*SAI of New England, Inc.

[Go to End of 75200]

Re SAI of New England, Inc.

DE 93-073

Order No. 20,962

78 NH PUC 509

New Hampshire Public Utilities Commission

September 10, 1993

Order *Nisi* Approving Petition for Authority to Conduct Business as a Telecommunications
Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On April 16, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from SAI of New England, Inc. (SAI), an affiliate of Strategic Alliances Inc., a Minnesota corporation, for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze competition during the two-year Trial Period (October 1, 1993 to September 30, 1995) described in Commission Report and Order No. 20,916 (August 2, 1993); and

WHEREAS, the Commission finds that it is in the public good to allow competitors to offer intrastate long distance service during the Trial Period; and

WHEREAS, the Commission finds that SAI demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to this petition; it is hereby

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ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the

Commission no later than October 5, 1993; and it is

FURTHER ORDERED, that the petitioner effect notification by publishing an attested copy of the Notice of Conditional Approval of this Order once in a newspaper having general statewide circulation, publication to be no later than September 20, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before October 5, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 363-A:1, et seq. SAI shall pay all assessments levied upon it by the Commission based on the amount of gross revenues received as a result of doing business in New Hampshire; and it is

FURTHER ORDERED, that SAI may offer as a public utility, telecommunication services for the service territory of the entire State of New Hampshire; and it is

FURTHER ORDERED, *NISI*, that SAI hereby is granted authority to offer intrastate long distance services in the state of New Hampshire subject to the following conditions:

1. that the services shall be offered only by approved tariffs, as subsequently amended, and shall be offered only on an interim basis until completion of the Trial Period, at which time the authority granted herein may be revoked or continued on the same or different basis;

2. that SAI shall file tariffs for new services and changes in approved services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;

3. that SAI shall notify the Commission of a change in rates of approved services to be charged the public within one day after offering the service at rates other than the rates on file with the Commission;

4. that SAI is exempt from NH Admin. Rules, Puc 406.03 Accounting Records; Puc 407 Forms Required of All Telephone Utilities; and Puc 409 Uniform System of Accounts for Telecommunications Companies;

5. that SAI shall maintain its books and records in accordance with Generally Accepted Accounting Principles;

6. that SAI shall file each calendar year an Annual Report, consisting of: a Balance Sheet and Statement of Operations and an Information Sheet, reflecting to whom the N.H. Utility Assessment should be mailed and a Listing of Corporate Officers and Titles;

7. that SAI shall be subject and responsible for adhering to all statutes and administrative rules including those related to quality and terms and conditions of service, disconnections, deposits and billing, except those specifically waived herein;

8. that SAI shall be subject to all reporting requirements contained in RSA 374:13-19 and any filing or reporting requirements imposed by the Commission in this or subsequent orders;

9. that SAI shall compensate the appropriate Local Exchange Company for all originating and terminating access used by SAI pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies;a) b)

10. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

11. that during the Trial Period, SAI shall within 60 days following the end of calendar quarter, report on a confidential basis, except where noted, monthly statistics, for each month the service is offered, the following information:

a. For each intrastate toll service offered:

(1) number of subscribers in NH who have intrastate usage will

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be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

(2) intrastate minutes of use;

(3) intrastate revenue;

(4) type of access arrangement used;

(5) for services that use different access arrangements (e.g. SDN) the percentage of use relative to each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

(6) whether the service is residential or business or both. Item a.(6) is not confidential.

b. On an aggregate basis, intrastate minutes and access charges actually paid to each LEC;

c. The intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and for special access arrangements;

d. The number of interstate and intrastate special access arrangements stated by channel capacity;

e. The intrastate conversation minutes of use terminated, reported separately by service, for switched access arrangements, and for special access arrangements;

f. As a percentage of total intrastate conversation minutes of use, the amount of intrastate traffic that was both originated and terminated over switched access;

g. For each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

(1) for non-800 services, originating outbound minutes of use;

(2) for 800 services, terminating inbound minutes of use;

(3) average call duration;

(4) type of access arrangement used. Item g.(4) is not confidential;

h. Percentage Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC); and it is

FURTHER ORDERED, that nothing contained in this Order shall be construed to allow SAI to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that SAI file a compliance tariff before beginning operations in accordance with NH Admin. Rules, Puc PART 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective October 8, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this tenth day of September, 1993.

Notice of Conditional Approval of SAI of New England, Inc. To Do Business as a Telecommunications Utility in State of New Hampshire

On April 16, 1993, SAI of New England, Inc. (SAI) filed with the New Hampshire Public Utilities Commission (Commission) a petition to do business as a telecommunications utility in the State of New Hampshire, specifically to provide intrastate long distance telecommunica-

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tions services. SAI, a New Hampshire corporation, is affiliated with Strategic Alliances, Inc., a Minnesota corporation.

In Order No. 20,962, the Commission granted SAI conditional approval to operate as of October 8, 1993 subject to the right of the public and interested parties to comment on SAI or its operations before the Order becomes final.

For copies of the petition or Commission order granting conditional approval, please contact the Commission's Executive Director and Secretary at (603) 271-2431, or as noted below. Anyone interested in commenting on SAI's petition to do business in the State should submit written comments no later than October 5, 1993 to:

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission 8 Old Suncook Road Concord, New Hampshire 03301

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NH.PUC*09/13/93*[75201]*78 NH PUC 512*LCI International of New Hampshire, Inc.

[Go to End of 75201]

Re LCI International of New Hampshire, Inc.

DE 93-085
Order No. 20,963
78 NH PUC 512

New Hampshire Public Utilities Commission

September 13, 1993

Order *Nisi* Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On April 29, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from LCI International of New Hampshire, Inc. (LCI), an affiliate of LiTel Communications Inc., for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze competition during the two-year Trial Period (October 1, 1993 to September 30, 1995) described in Commission Report and Order No. 20,916 (August 2, 1993); and

WHEREAS, the Commission finds that it is in the public good to allow competitors to offer intrastate long distance service during the Trial Period; and

WHEREAS, the Commission finds that LCI demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to this petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 7, 1993; and it is

FURTHER ORDERED, that the petitioner effect notification by publishing an attested copy of the Notice of Conditional Approval attached to this Order once in a newspaper having general statewide circulation, publication to be no later than September 22, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before October 7, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 363-A:1, et seq. LCI shall pay all assessments levied upon it by the Commission based on the amount of gross revenues received as a result of doing business in New Hampshire; and it is

FURTHER ORDERED, that LCI may offer as a public utility, telecommunication services for the service territory of the entire State of New Hampshire; and it is

FURTHER ORDERED, *NISI*, that LCI hereby is granted authority to offer intrastate long distance services in the state of New Hampshire subject to the following conditions:

1. that the services shall be offered only by approved tariffs, as subsequently amended, and shall be offered only on an interim basis until completion of the Trial Period, at which time the authority granted herein may be revoked or continued on the same or different basis;

2. that LCI shall file tariffs for new services and changes in approved services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;

3. that LCI shall notify the Commission of a change in rates of approved services to be charged the public within one day after offering the service at rates other than the rates on file with the Commission;

4. that LCI is exempt from NH Admin. Rules, Puc 406.03 Accounting Records; Puc 407 Forms Required of All Telephone Utilities; and Puc 409 Uniform System of Accounts for Telecommunications Companies;

5. that LCI shall maintain its books and records in accordance with Generally Accepted Accounting Principles;

6. that LCI shall file each calendar year an Annual Report, consisting of: a Balance Sheet and Statement of Operations and an Information Sheet, reflecting to whom the N.H. Utility Assessment should be mailed and a Listing of Corporate Officers and Titles;

7. that LCI shall be subject and responsible for adhering to all statutes and administrative rules including those related to quality and terms and conditions of service, disconnections, deposits and billing, except those specifically waived herein;

8. that LCI shall be subject to all reporting requirements contained in RSA 374:13-19 and any filing or reporting requirements imposed by the Commission in this or subsequent orders;

9. that LCI shall compensate the appropriate Local Exchange Company for all originating and terminating access used by LCI pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies;a) b)

10. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

11. that during the Trial Period, LCI shall within 60 days following the end of calendar quarter, report on a confidential basis, except where noted, monthly statistics, for each month the service is offered, the following information:

a. For each intrastate toll service offered:

(1) number of subscribers in NH who have intrastate usage will be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

(2) intrastate minutes of use;

(3) intrastate revenue;

(4) type of access arrangement used;

(5) for services that use different access arrangements (e.g. SDN) the percentage of use relative to each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

(6) whether the service is residential or business or both. Item a.(6) is not confidential.

b. On an aggregate basis, intrastate minutes and access charges actually paid to each LEC;

c. The intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and for special access arrangements;

d. The number of interstate and intrastate special access arrangements stated by channel capacity;

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e. The intrastate conversation minutes of use terminated, reported separately by service, for switched access arrangements, and for special access arrangements;

f. As a percentage of total intrastate conversation minutes of use, the amount of intrastate traffic that was both originated and terminated over switched access;

g. For each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

(1) for non-800 services, originating outbound minutes of use;

(2) for 800 services, terminating inbound minutes of use;

(3) average call duration;

(4) type of access arrangement used. Item g.(4) is not confidential;

h. Percentage Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC); and it is

FURTHER ORDERED, that nothing contained in this Order shall be construed to allow LCI to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that LCI file a compliance tariff before beginning operations in accordance with NH Admin. Rules, Puc PART 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective October 11, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirteenth day of September, 1993.

Notice of Conditional Approval of LCI International of New Hampshire, Inc. To Do Business as a Telecommunications Utility in State of New Hampshire

On April 29, 1993, LCI International of New Hampshire, Inc. (LCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition to do business as a telecommunications utility in the State of New Hampshire, specifically to provide intrastate long distance telecommunications services. LCI, a New Hampshire corporation, is affiliated with LiTel Communications, Inc., a Delaware corporation.

In Order No. 20,963, the Commission granted LCI conditional approval to operate as of October 11, 1993 subject to the right of the public and interested parties to comment on LCI or its operations before the Order becomes final.

For copies of the petition or Commission order granting conditional approval, please contact the Commission's Executive Director and Secretary at (603) 271-2431, or as noted below. Anyone interested in commenting on LCI's petition to do business in the State should submit written comments no later than October 7, 1993 to:

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission 8 Old Suncook Road Concord, New Hampshire 03301

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NH.PUC*09/13/93*[75202]*78 NH PUC 515*New England Telephone

[Go to End of 75202]

Re New England Telephone

DR 93-122

Order No. 20,964

78 NH PUC 515

New Hampshire Public Utilities Commission

September 13, 1993

Order *Nisi* Approving Tariff Introducing 800 Call Management Features.

BY THE COMMISSION:

ORDER

On June 7, 1993, New England Telephone (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce 800 Call Management Features effective July 7, 1993; and

WHEREAS, the proposed tariff pages were suspended by Order No. 20,892 on July 1, 1993, pending further investigation by Staff; and

WHEREAS, 800 Call Management Features are optional feature packages which increase the routing and reporting capabilities of those 800 Service and VALUFLEX customers who are served out of the NYNEX 800 database; and

WHEREAS, the Commission Staff has investigated this matter including the petition and responses to Staff data requests; and

WHEREAS, after correcting certain assumptions, the calculated service and equipment costs for call data reports exceed the proposed rate as filed (\$60.25); and

WHEREAS, the Staff and the Company have addressed the problems which occur when the costs to provide a service exceed the rates charged; and

WHEREAS, the Company has agreed to increase the call data report service and equipment rate to \$61.50 in order to avoid cross subsidization; and

WHEREAS, the filing includes a guarantee provision to waive the emergency update service and equipment charge and to credit the customer's bill in the amount equal to the 800 VALUFLEX service monthly rate if NET fails to activate emergency call routing within five minutes of notification by the customer; and

WHEREAS, it is shareholders, and not ratepayers, who should bear the costs of service guarantees beyond standard service quality; and

WHEREAS, after reviewing the petition and the Staff recommendation, the Commission finds the proposed offering to be in the public good; it is therefore

ORDERED *NSI*, that the following tariff pages of New England Telephone are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC - No. 75
Part A - Section 10 - Seventh Revision of Table of Contents
Eighth Revision of Page 4
Third Revision of Pages 7, 8 and 9
Original Page 10,

and it is

FURTHER ORDERED, that NHPUC - No. 75, Part A - Section 10, Original Page 11 is approved in its entirety with the exception of paragraph two under 10.5.1. FEATURE DESCRIPTIONS B, which is amended to read as follows:

Within five (5) minutes of notification by the customer, the Company will activate the Emergency Alternate Routing arrangement in the customer data base record. If the Company fails to activate the Emergency Alternate Routing arrangement within 5 minutes, the Emergency Update Service and Equipment charge is waived. Timing begins after identification and verification of a customer's alternate route. Subject to the terms of liability and indemnification as specified in Section 1.2.1. preceding and in the event of labor difficulties, governmental orders, civil commotions, criminal actions taken against the Telephone Company, acts of God, customer negligence, failure of power, equipment or systems and other circumstances beyond its control the Telephone Company shall be excused from the five (5) minute activation interval and the associated charge waiver.

Page 515

FURTHER ORDERED, that NHPUC - No. 75, Part A - Section 10, Original Page 12 is approved in its entirety with the exception of the rates for Call Data Reports specified in section C, which are amended to read \$61.50; and it is

FURTHER ORDERED, that NET shall track and report annually to the PUC the number of and expense associated with credits to customer bills resulting from service performance guarantees; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, the company cause an attested copy of this Order *Nisi* to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than September 16, 1993 and to be documented by affidavit filed with this office on or before October 1, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than October 1, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective twenty days from the publication date, unless the Commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirteenth day of September, 1993.

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NH.PUC*09/13/93*[75203]*78 NH PUC 516*AmeriConnect Inc. of New Hampshire

[Go to End of 75203]

Re AmeriConnect Inc. of New Hampshire

DE 93-139

Order No. 20,965

78 NH PUC 516

New Hampshire Public Utilities Commission

September 13, 1993

Order *Nisi* Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On July 15, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from AmeriConnect, Inc. of New Hampshire, (AmeriConnect), affiliated with AmeriFax, Inc. a Delaware corporation, for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze competition during the two-year Trial Period (October 1, 1993 to September 30, 1995) described in Commission Report and Order No. 20,916 (August 2, 1993); and

WHEREAS, the Commission finds that it is in the public good to allow competitors to offer intrastate long distance service during the Trial Period; and

WHEREAS, the Commission finds that AmeriConnect demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to this petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 7, 1993; and it is

FURTHER ORDERED, that the petitioner effect notification by publishing an attested copy of the Notice of Conditional Approval attached to this Order once in a newspaper having general statewide circulation, publication to be no later than September 22, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before October 7, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 363-A:1, et seq. AmeriConnect shall pay all assessments levied upon it by the Commission based on the amount of gross revenues received as a result of doing business in New Hampshire; and it is

FURTHER ORDERED, that AmeriConnect may offer as a public utility, telecommunication services for the service territory of the entire State of New Hampshire; and it is

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FURTHER ORDERED, *NISI*, that AmeriConnect hereby is granted authority to offer intrastate long distance services in the state of New Hampshire subject to the following conditions:

1. that the services shall be offered only by approved tariffs, as subsequently amended, and shall be offered only on an interim basis until completion of the Trial Period, at which time the authority granted herein may be revoked or continued on the same or different basis;
2. that AmeriConnect shall file tariffs for new services and changes in approved services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;
3. that AmeriConnect shall notify the Commission of a change in rates of approved services to be charged the public within one day after offering the service at rates other than the rates on file with the Commission;
4. that AmeriConnect is exempt from NH Admin. Rules, Puc 406.03 Accounting Records; Puc 407 Forms Required of All Telephone Utilities; and Puc 409 Uniform System of Accounts for Telecommunications Companies;
5. that AmeriConnect shall maintain its books and records in accordance with Generally Accepted Accounting Principles;
6. that AmeriConnect shall file each calendar year an Annual Report, consisting of: a

Balance Sheet and Statement of Operations and an Information Sheet, reflecting to whom the N.H. Utility Assessment should be mailed and a Listing of Corporate Officers and Titles;

7. that AmeriConnect shall be subject and responsible for adhering to all statutes and administrative rules including those related to quality and terms and conditions of service, disconnections, deposits and billing, except those specifically waived herein;

8. that AmeriConnect shall be subject to all reporting requirements contained in RSA 374:13-19 and any filing or reporting requirements imposed by the Commission in this or subsequent orders;

9. that AmeriConnect shall compensate the appropriate Local Exchange Company for all originating and terminating access used by AmeriConnect pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies;a) b)

10. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

11. that during the Trial Period, AmeriConnect shall within 60 days following the end of calendar quarter, report on a confidential basis, except where noted, monthly statistics, for each month the service is offered, the following information:

a. For each intrastate toll service offered:

(1) number of subscribers in NH who have intrastate usage will be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

(2) intrastate minutes of use;

(3) intrastate revenue;

(4) type of access arrangement used;

(5) for services that use different access arrangements (e.g. SDN) the percentage of use relative to each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

(6) whether the service is residential or business or both. Item a.(6) is not confidential.

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b. On an aggregate basis, intrastate minutes and access charges actually paid to each LEC;

c. The intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and for special access arrangements;

d. The number of interstate and intrastate special access arrangements stated by channel capacity;

e. The intrastate conversation minutes of use terminated, reported separately by service, for switched access arrangements, and for special access arrangements;

f. As a percentage of total intrastate conversation minutes of use, the amount of intrastate

traffic that was both originated and terminated over switched access;

g. For each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

- (1) for non-800 services, originating outbound minutes of use;
- (2) for 800 services, terminating inbound minutes of use;
- (3) average call duration;
- (4) type of access arrangement used. Item g.(4) is not confidential;

h. Percentage Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC); and it is

FURTHER ORDERED, that nothing contained in this Order shall be construed to allow AmeriConnect to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that AmeriConnect file a compliance tariff before beginning operations in accordance with NH Admin. Rules, Puc PART 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective October 11, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirteenth day of September, 1993.

Notice of Conditional Approval of AmeriConnect Inc. of New Hampshire, To Do Business as a Telecommunications Utility in State of New Hampshire

On July 15, 1993, AmeriConnect, Inc. of New Hampshire, (AmeriConnect) filed with the New Hampshire Public Utilities Commission (Commission) a petition to do business as a telecommunications utility in the State of New Hampshire, specifically to provide intrastate long distance telecommunications services. AmeriConnect, a New Hampshire corporation, is affiliated with AmeriFax, Inc., a Delaware corporation.

In Order No. 20,965, the Commission granted AmeriConnect conditional approval to operate as of October 11, 1993 subject to the right of the public and interested parties to comment on AmeriConnect or its operations before the Order becomes final.

For copies of the petition or Commission order granting conditional approval, please contact the Commission's Executive Director and Secretary at (603) 271-2431, or as noted below. Anyone interested in commenting on AmeriConnect's petition to do business in the State should submit written comments no later than October 7, 1993 to:

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission 8 Old Suncook Road Concord, New Hampshire 03301

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NH.PUC*09/14/93*[75204]*78 NH PUC 519*Investigation into New England Telephone's Long Distance Dialing Plan for New Hampshire

[Go to End of 75204]

Re Investigation into New England Telephone's Long Distance Dialing Plan for New Hampshire

DE 93-003
Order No. 20,966
78 NH PUC 519

New Hampshire Public Utilities Commission
September 14, 1993

Order Clarifying Order No. 20,938.

BY THE COMMISSION:

ORDER

On August 20, 1993, in DE 93-003, Investigation into New England Telephone's Long Distance Dialing Plan for New Hampshire, the Public Utilities Commission of New Hampshire (Commission) issued Order No. 20,938; and

WHEREAS, on August 26, 1993, Long Distance North, one of several parties to the case, filed a Motion for Clarification (Motion) with the Commission seeking clarification as to whether Order No. 20,938 was an interim or final order; and

WHEREAS, on August 30, 1993, Granite State Telephone, Inc., Merrimack County Telephone Company, Dunbarton Telephone Company, Inc., Wilton Telephone Company, Inc. and Bretton Woods Telephone Company jointly filed a Response to the Motion, asserting that in their view Order No. 20,938 is final; and

WHEREAS, the Commission stated in the final paragraph of Order No. 20,938, "...that the Commission will issue final approval of the dialing change contemplated herein when the above ordered requirements have been reviewed *and found satisfactory by the Commission.*" (emphasis added); it is therefore

ORDERED, that Order No. 20,938 is an interim order for the purposes of appeal and that a final order, from which any party or person directly affected may appeal pursuant to RSA 541:3, shall be issued upon the Commission's review and approval of the further requirements imposed by said order.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of September, 1993.

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NH.PUC*09/14/93*[75205]*78 NH PUC 519*Telegroup of Iowa, Inc.

[Go to End of 75205]

Re Telegroup of Iowa, Inc.

DE 93-057

Order No. 20,967

78 NH PUC 519

New Hampshire Public Utilities Commission

September 14, 1993

Order *Nisi* Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On March 19, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from Telegroup, Inc., an Iowa corporation, since incorporated in New Hampshire as Telegroup of Iowa, Inc. (Telegroup), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze competition during the two-year Trial Period (October 1, 1993, to September 30, 1995) described in Commission Report and Order No. 20,916 (August 2, 1993); and

WHEREAS, the Commission finds that it is in the public good to allow competitors to offer intrastate long distance service during the Trial Period; and

WHEREAS, the Commission finds that Telegroup demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to this petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 11, 1993; and it is

FURTHER ORDERED, that the petitioner effect notification by publishing an attested copy of the Notice of Conditional Approval attached to this Order once in a newspaper having general statewide circulation, publication to be no later than September 24, 1993. Compliance with this notice provision shall be

documented by affidavit to be filed with the Commission on or before October 11, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 363-A:1, et seq. Telegroup shall pay all assessments levied upon it by the Commission based on the amount of gross revenues received as a result of doing business in New Hampshire; and it is

FURTHER ORDERED, that Telegroup may offer as a public utility, telecommunication services for the service territory of the entire State of New Hampshire; and it is

FURTHER ORDERED, *Nisi*, that Telegroup hereby is granted authority to offer intrastate long distance services in the state of New Hampshire subject to the following conditions:

1. that the services shall be offered only by approved tariffs, as subsequently amended, and shall be offered only on an interim basis until completion of the Trial Period, at which time the authority granted herein may be revoked or continued on the same or different basis;
2. that Telegroup shall file tariffs for new services and changes in approved services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;
3. that Telegroup shall notify the Commission of a change in rates of approved services to be charged the public within one day after offering the service at rates other than the rates on file with the Commission;
4. that Telegroup is exempt from NH Admin. Rules, Puc 406.03 Accounting Records; Puc 407 Forms Required of All Telephone Utilities; and Puc 409 Uniform System of Accounts for Telecommunications Companies;
5. that Telegroup shall maintain its books and records in accordance with Generally Accepted Accounting Principles;
6. that Telegroup shall file each calendar year an Annual Report, consisting of: a Balance Sheet and Statement of Operations and an Information Sheet, reflecting to whom the N.H. Utility Assessment should be mailed and a Listing of Corporate Officers and Titles;
7. that Telegroup shall be subject and responsible for adhering to all statutes and administrative rules including those related to quality and terms and conditions of service, disconnections, deposits and billing, except those specifically waived herein;
8. that Telegroup shall be subject to all reporting requirements contained in RSA 374:13-19 and any filing or reporting requirements imposed by the Commission in this or subsequent orders;
9. that Telegroup shall compensate the appropriate Local Exchange Company for all originating and terminating access used by Telegroup pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies;a) b)
10. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;
11. that during the Trial Period, Telegroup shall within 60 days following the end of calendar

quarter, report on a confidential basis, except where noted, monthly statistics, for each month the service is offered, the following information:

a. For each intrastate toll service offered:

(1) number of subscribers in NH who have intrastate usage will be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

(2) intrastate minutes of use;

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(3) intrastate revenue;

(4) type of access arrangement used;

(5) for services that use different access arrangements (e.g. SDN) the percentage of use relative to each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

(6) whether the service is residential or business or both. Item a.(6) is not confidential.

b. On an aggregate basis, intrastate minutes and access charges actually paid to each LEC;

c. The intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and for special access arrangements;

d. The number of interstate and intrastate special access arrangements stated by channel capacity;

e. The intrastate conversation minutes of use terminated, reported separately by service, for switched access arrangements, and for special access arrangements;

f. As a percentage of total intrastate conversation minutes of use, the amount of intrastate traffic that was both originated and terminated over switched access;

g. For each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

(1) for non-800 services, originating outbound minutes of use;

(2) for 800 services, terminating inbound minutes of use;

(3) average call duration;

(4) type of access arrangement used. Item g.(4) is not confidential;

h. Percentage Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC); and it is

FURTHER ORDERED, that nothing contained in this Order shall be construed to allow Telegroup to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that Telegroup file a compliance tariff before beginning operations in accordance with NH Admin. Rules, Puc PART 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective October 14, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this fourteenth day of September, 1993.

Notice of Conditional Approval of Telegroup of Iowa, Inc. To Do Business as a Telecommunications Utility in the State of New Hampshire

On March 19, 1993, Telegroup of Iowa, Inc. (Telegroup) filed with the New Hampshire Public Utilities Commission (Commission) a petition to do business as a telecommunications utility in the State of New Hampshire, specifically to provide intrastate long distance telecommunications services. Telegroup of Iowa, Inc., a New Hampshire corporation, is affiliated with Telegroup, Inc., an Iowa corporation.

In Order No. 20,967, the Commission granted Telegroup conditional approval to operate as of October 14, 1993, subject to the right of the public and interested parties to comment on Telegroup or its operations before the Order becomes final.

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For copies of the petition or Commission order granting conditional approval, please contact the Commission's Executive Director and Secretary at (603) 271-2431, or as noted below. Anyone interested in commenting on Telegroup's petition to do business in the State should submit written comments no later than October 11, 1993, to:

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission 8 Old Suncook Road Concord, New Hampshire 03301

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NH.PUC*09/15/93*[75206]*78 NH PUC 522*Springwood Hills Water Company, Inc.

[Go to End of 75206]

Re Springwood Hills Water Company, Inc.

DE 90-051
Order No. 20,968
78 NH PUC 522

New Hampshire Public Utilities Commission

September 15, 1993

Order Concerning Installation of Meters.

BY THE COMMISSION:

ORDER

On May 17, 1991, the New Hampshire Public Utilities Commission (Commission) issued Order No. 20,134 approving a stipulation between its Staff and Springwood Hills Water Company, Inc. (Company) concerning permanent rates for water service rendered in that portion of the Town of Londonderry, New Hampshire known as Springwood Hills; and

WHEREAS, in addition to the issuance of permanent rates, the stipulation approved by the Commission addressed the installation of water meters at Springwood Hills; and

WHEREAS, the stipulation called for submission of a metering plan to the Commission providing for the installation of individual meters over a period of four years; and

WHEREAS, on December 31, 1992, the Company submitted a proposed residential water metering plan for approval by the Commission which proposed that all water meters be installed prior to April 1996; and

WHEREAS, Staff has had an opportunity to review the metering plan; and

WHEREAS, Puc 603.05 (a) states that "all water sold by a utility shall be billed pursuant upon the basis of metered volume sales unless specific Commission approval is granted by the Commission unmetered service (sic)"; and

WHEREAS, the Commission received approximately 10 complaints relative to a lack of water pressure at Springwood Hills during the months of June, July and August of 1993, including complaints of a complete lack of water pressure; and

WHEREAS, our engineering Staff reports that the system is more than adequately designed to meet the normal operating needs of the community served excluding certain customers located at high elevations with long undersized service connections which result in a complete loss of water pressure at peak usage; and

WHEREAS, the only resolution to these customers lack of water pressure is the installation of individual booster pumps in the customers homes; and

WHEREAS, the loss of water pressure at these homes could result in hazardous backflow situations which would only be exacerbated by the additional of booster pumps; and

WHEREAS, the installation of individual meters with back flow preventers and the institution of a metered rate should reduce consumption thereby reducing peak usage which may alleviate the need for booster pumps and the potential of backflow; and

WHEREAS, in any event the meters would provide backflow prevention and send the proper price signals to customers; it is hereby

ORDERED, that Springwood Hills Water Company, Inc.'s proposed meter installation plan is rejected; and it is

FURTHER ORDERED, that Springwood Hills Water Company, Inc. install meters in all residential dwelling units located in the area served by the Company no later than April 30, 1994, or show cause why said meters should not be installed; and it is

FURTHER ORDERED, that upon installation of the meters, the company shall submit a proposed consumption rate governing the provision of water service on the basis of metered

volume sales; and it is

FURTHER ORDERED, that the Company indicate its acquiescence in this order or

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request a hearing to show cause why this order should not take effect by September 24, 1993.

By order of the New Hampshire Public Utilities Commission this fifteenth day of September, 1993.

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NH.PUC*09/15/93*[75207]*78 NH PUC 523*TeleDebit of New Hampshire, Inc.

[Go to End of 75207]

Re TeleDebit of New Hampshire, Inc.

DE 93-053

Order No. 20,969

78 NH PUC 523

New Hampshire Public Utilities Commission

September 15, 1993

Order *Nisi* Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire and Granting Confidential Treatment of Financial Data.

BY THE COMMISSION:

ORDER

On March 3, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from TeleDebit, L.P., a Delaware limited partnership, since incorporated in New Hampshire as TeleDebit of New Hampshire, Inc. (TeleDebit), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze competition during the two-year Trial Period (October 1, 1993, to September 30, 1995) described in Commission Report and Order No. 20,916 (August 2, 1993); and

WHEREAS, the Commission finds that it is in the public good to allow competitors to offer intrastate long distance service during the Trial Period; and

WHEREAS, the Commission finds that TeleDebit demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, TeleDebit, at page five and six of its March 3, 1993, petition, requested confidential treatment of the financial data contained in Exhibits 4, 5, and 6, and renewed its request through its July 15, 1993, "Petition of Confidential Treatment of Proprietary Financial Information;" and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to this petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 12, 1993; and it is

FURTHER ORDERED, that the petitioner effect notification by publishing an attested copy of the Notice of Conditional Approval attached to this Order once in a newspaper having general statewide circulation, publication to be no later than September 27, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before October 12, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 363-A:1, et seq. TeleDebit shall pay all assessments levied upon it by the Commission based on the amount of gross revenues received as a result of doing business in New Hampshire; and it is

FURTHER ORDERED, that TeleDebit may offer as a public utility, telecommunication services for the service territory of the entire State of New Hampshire; and it is

FURTHER ORDERED, *Nisi*, that TeleDebit is hereby granted confidential treatment of the proprietary financial information in Exhibits 4, 5, and 6 of its petition; and it is

FURTHER ORDERED, *Nisi*, that TeleDebit hereby is granted authority to offer intrastate long distance services in the state of New Hampshire subject to the following conditions:

1. that the services shall be offered only by approved tariffs, as subsequently amended, and shall be offered only on an interim basis until completion of the Trial Period, at which time the authority granted herein may be revoked or continued on the same or different basis;

2. that TeleDebit shall file tariffs for new services and changes in approved services (other than rate changes), with effective dates

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of no less than 30 days after the date the tariffs are filed with the Commission;

3. that TeleDebit shall notify the Commission of a change in rates of approved services to be charged the public within one day after offering the service at rates other than the rates on file with the Commission;

4. that TeleDebit is exempt from NH Admin. Rules, Puc 406.03 Accounting Records; Puc 407 Forms Required of All Telephone Utilities; and Puc 409 Uniform System of Accounts for Telecommunications Companies;

5. that TeleDebit shall maintain its books and records in accordance with Generally Accepted Accounting Principles;

6. that TeleDebit shall file each calendar year an Annual Report, consisting of: a Balance Sheet and Statement of Operations and an Information Sheet, reflecting to whom the N.H. Utility Assessment should be mailed and a Listing of Corporate Officers and Titles;

7. that TeleDebit shall be subject and responsible for adhering to all statutes and administrative rules including those related to quality and terms and conditions of service, disconnections, deposits and billing, except those specifically waived herein;

8. that TeleDebit shall be subject to all reporting requirements contained in RSA 374:13-19 and any filing or reporting requirements imposed by the Commission in this or subsequent orders;

9. that TeleDebit shall compensate the appropriate Local Exchange Company for all originating and terminating access used by TeleDebit pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies;a) b)

10. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

11. that during the Trial Period, TeleDebit shall within 60 days following the end of calendar quarter, report on a confidential basis, except where noted, monthly statistics, for each month the service is offered, the following information: a. For each intrastate toll service offered:

(1) number of subscribers in NH who have intrastate usage will be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

(2) intrastate minutes of use;

(3) intrastate revenue;

(4) type of access arrangement used;

(5) for services that use different access arrangements (e.g. SDN) the percentage of use relative to each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

(6) whether the service is residential or business or both. Item a.(6) is not confidential.

b. On an aggregate basis, intrastate minutes and access charges actually paid to each LEC;

c. The intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and for special access arrangements;

d. The number of interstate and intrastate special access arrangements stated by channel capacity;

e. The intrastate conversation minutes of use terminated, reported separately

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by service, for switched access arrangements, and for special access arrangements;

f. As a percentage of total intrastate conversation minutes of use, the amount of intrastate

traffic that was both originated and terminated over switched access;

g. For each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

- (1) for non-800 services, originating outbound minutes of use;
- (2) for 800 services, terminating inbound minutes of use;
- (3) average call duration;
- (4) type of access arrangement used. Item g.(4) is not confidential;

h. Percentage Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC); and it is

FURTHER ORDERED, that nothing contained in this Order shall be construed to allow TeleDebit to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that TeleDebit file a compliance tariff before beginning operations in accordance with NH Admin. Rules, Puc PART 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective October 15, 1993 unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this fifteenth day of September, 1993.

Notice of Conditional Approval of TeleDebit of New Hampshire, Inc. To Do Business as a Telecommunications Utility in the State of New Hampshire

On March 3, 1993, TeleDebit of New Hampshire, Inc. (TeleDebit) filed with the New Hampshire Public Utilities Commission (Commission) a petition to do business as a telecommunications utility in the State of New Hampshire, specifically to provide intrastate long distance telecommunications services. TeleDebit, a New Hampshire corporation, is affiliated with TeleDebit, L.P., a Delaware limited partnership.

In Order No. 20,969, the Commission granted TeleDebit conditional approval to operate as of October 15, 1993, subject to the right of the public and interested parties to comment on TeleDebit or its operations before the Order becomes final.

For copies of the petition or Commission order granting conditional approval, please contact the Commission's Executive Director and Secretary at (603) 271-2431, or as noted below. Anyone interested in commenting on TeleDebit's petition to do business in the State should submit written comments no later than October 12, 1993, to:

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission 8 Old Suncook Road Concord, New Hampshire 03301

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NH.PUC*09/20/93*[75208]*78 NH PUC 526*Granite State Electric Company

[Go to End of 75208]

Re Granite State Electric Company

DR 93-160
Order No. 20,970

78 NH PUC 526

New Hampshire Public Utilities Commission

September 20, 1993

Report and Order Granting Granite State Electric Company's Request for Certification of Conservation Renewables.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On August 27, 1993, Granite State Electric Company (Granite State) filed with the New Hampshire Public Utilities Commission (Commission) a request that the Commission certify certain aspects of Granite State's application to the Environmental Protection Agency (EPA) to receive allowances known as the Energy Conservation and Renewable Energy Reserve under the EPA's Acid Rain Program. These allowances are awarded pursuant to subpart F of Title IV of the Clean Air Act Amendments of 1990 (CAAA).

The CAAA requires that each utility's application for allowances contain certification from the appropriate regulatory authority (which in this case is the Commission) that the utility meets certain sulphur dioxide emissions standards through both demand side conservation programs and the use of renewable energy resources. 40 CFR 73.82(a)(4), (5), (6) and (7). The requirements under each of the pertinent sections and the Commission's analysis of Granite State's compliance with those requirements are addressed below.

II. COMMISSION ANALYSIS

A. *Section (4) Requirements*

40 CFR 73.82(a)(4) requires Commission certification that Granite State is subject to a least cost planning process that a) provides for public participation, b) evaluates the full range of resources to meet future demand at the lowest cost, c) treats demand-side and supply-side resources on an integrated basis, d) considers diversity, reliability and dispatch ability and other risk factors, and e) is being implemented to the maximum extent possible.

The requirements of Section (4) regarding Granite State's participation in a least cost planning process is met by our recent investigation into Granite State's least cost planning process in Docket DE 92-079. That investigation meets the requirements of Section (4) of the regulations. We approved Granite State's least cost planning process in Order No. 20,789 (March 9, 1992).

B. *Section (5) Requirements*

40 CFR 73.82(a)(5) requires Commission certification that Granite State's energy conservation measures and renewable energy generated are consistent with the least cost planning process.

The requirements of Section (5) regarding Granite State's energy conservation measures and renewable energy generated is met in part by our investigation into Granite State's Conservation and Load Management (C&LM) program in Docket DR 92-161. In that docket we approved energy conservation measures to be implemented in a manner consistent with Granite State's currently effective least cost plan. The rest of the Section (5) conditions are met by our approval of the least cost planning process which includes a review of all of Granite State's energy resources, including renewable energy.

C. Section (6) Requirements

40 CFR 73.82(a)(6) requires Commission certification that Granite State's least cost planning process has been approved by the applicable regulatory authority and that the planning process meets the requirements of Section (4) of the regulations.

As stated above, the requirements of Section (6) have been met by our approval of Granite State's least cost planning process. *See In Re Granite State Electric Company*, DE 92-079, Order No. 20,789 (March 9, 1992). In this order, we reviewed and approved Granite

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State's least cost plan, which satisfied the Section (4) requirements.

D. Section (7) Requirements

40 CFR 73.82(a)(7) only pertains to utilities which are not subject to our jurisdiction. Because Granite State is clearly within our jurisdiction, Section (7) is not applicable and we need take no action.

E. Other C&LM and Renewable Resources

In addition, Granite State seeks Commission certification that any additional C&LM measures or renewable resources not listed in Appendix A of 40 CFR Part 73, for which Granite State is seeking allowance credit, meet certain standards. Most of Granite State's C&LM programs are listed in Appendix A. There are, however, some C&LM measures not listed in Appendix A for which Granite State seeks certification.

Under the CAAA, the measure must be a cost-effective demand-side measure consistent with least cost planning process. 40 CFR 73.81(a)(2)(i). All measures approved in DR 92-161, Granite State's C&LM docket, meet this standard.

The measure must also increase the efficiency of a customer's use of electricity without increasing the use of fuels other than qualified renewable energy, industrial waste heat or industrial waste gases. 40 CFR 73.81(a)(2)(i). Our approval of C&LM measures is designed to be fuel neutral and to reduce energy consumption. We did not approve measures which would increase the use of other fuels.

Finally, the measure must be implemented pursuant to an approved C&LM program which

meets the requirements of 40 CFR 73.82(a)(4). *See* 40 CFR 73.81 (a)(2)(ii). As previously stated, this condition is met by our approval of Granite State's C&LM programs. *In Re Granite State Electric Company*, DR 92-161, Order No. 20,798 (March 25, 1993).

Granite State is not seeking certification of any renewable energy resource not listed in Appendix A. Therefore, we need take no action regarding other renewable energy resources.

III. CONCLUSION

We find Granite State to have met the requirements of 40 CFR 73.82(a)(4), (5), (6) and (7) and, therefore, will certify that Granite State is in compliance with those sections of the CAAA regarding demand side conservation programs and the use of renewable energy resources.

Our order will issue accordingly.

Concurring: September 20, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the Commission certifies that Granite State Electric Company meets the requirements of the Clean Air Act Amendments of 1990, 40 CFR 73.82(a)(4), (5), (6) and (7) regarding demand side conservation programs and the use of renewable energy resources.

By order of the Public Utilities Commission of New Hampshire this twentieth day of September, 1993.

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[TABLE TO BE SHOT]

United States Environmental Protection Agency Program	Expires 1-31-96	OMB No. 2060-0258 Acid Rain
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EPA Conservation/Renewables Reserve

For more information, see instructions and refer to 40 CFR 73.80, 73.81 and 73.82
This submission is: x New Revised Page 1 of 2

STEP 1 Identify the applicant Granite State Electric Company Utility Name An affiliate of New England Power (NEP) State(s) NH
STEP 2 Enter information for the person completing this form

STEP 3 Identify any affected unit owned or operated by the applicant by plant name from NADB and allowance tracking system account ID# Name Deborah Donovan Phone (508) 366-9011 Plant Name NEP's Salem Harbor Unit 4ATS Account ID# 001626000004ENERGY CONSERVATION MEASURES AND VERIFICATION
STEP 4 Mark the appropriate box
Verification of conservation measures performed by

x State U.S. EPA (Attach documentation verifying energy savings)
STEP 5 Enter the requested information for each type of conservation measure employed. Total the savings and round to the nearest MWh. If more space is needed, add pages in the appropriate format
Type of Measure or Program Savings Year Number of Installations Energy Savings (MWh) See

attached 922,562.54 TOTAL 2,562.54 STEP 6 Convert total from Step 5 to tons of sulfur dioxide emissions avoided by .002 tons/MWh. Round to the nearest tenth of a ton 5.1 tons
 RENEWABLE ENERGY GENERATION STEP 7 Type of Generation Plant Name Generation Year Energy Generation (MWh) Enter the requested information for each type of renewable energy generation measure employed. Total the generation and round to the nearest MWh. If more space is needed, add pages in the appropriate format Biomass Turnkey Landfill 92405.1**See Attached TOTAL STEP 8 405.1 Mark box and attach documentation x I have attached documentation to verify the amount of renewable energy generation STEP 9 Convert the total from Step 7 to Tons of sulfur dioxide emissions avoided by multiplying Step 7 total by .002 tons/MWh. Round to the nearest tenth of a ton .81 tons EPA Form 7610-10 (1.93)

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[TABLE TO BE SHOT]

Granite State Electric Company Utility Name (from Step 1) Conservation Page 2 Page 2 of 2
 TOTAL RESERVE ALLOWANCES STEP 10 Add together the Step 6 and Step 9 entries; round result to the nearest ton and convert tons to allowances (1 ton = 1 allowance) 6 allowance
 STEP 11 Identify the allowance tracking account(s) and the number of earned reserve allowances to be allocated to each account. The total must equal the number entered at Step 10 Allowance Tracking System Account Number Allowances Granite State Electric Co. General ATS Acct. 5 NEP ATS Acct No. 0016260000041 TOTAL 6 CERTIFICATION BY RATE MAKING ENTITY
 STEP 12 Submit application to the appropriate ratemaking entity for approval I certify, as the appropriate representative of the applicant's ratemaking entity, that the applicant's least cost plan or least cost planning process meets the requirements of 40 CFR 73.82(a)(4), (5), (6) and (7), and if the applicant is claiming savings for a conservation or renewable energy measure not listed in Appendix A of 40 CFR Part 73, the measure meets the criteria of 40 CFR 73.81(a)(2) or 40 CFR 73.81(c)(2).

If the ratemaking entity performs verification (Step 4 is marked "State"), I also certify that the verification procedures meet the ratemaking entity's requirements and the information and calculations contained in this form are correct and accurate.
 Name of Certifying Official Douglas L. Patch, Phone (603) 271-2442 Name of Regulatory Body N. H. Public Utilities Commission
 Signature Date 9/20/93 CERTIFICATION BY CERTIFYING OFFICIAL FOR THE UTILITY
 STEP 13 Read the certifications and sign and date (see instructions) I certify that the following requirements have been met:

(1) Applicant is a utility as defined in 40 CFR 72.2. (2) If the applicant is an investor-owned utility submitting an application based on an energy conservation measure, the Department of Energy has certified the fulfillment of the net income neutrality requirement, or such certification is pending. (3) Applicant has met requirements for payment of conservation measures in 40 CFR 73.82(a)(3). (4) The qualified energy conservation or renewable energy generation measures are installed and operational on or after January 1, 1992, and before the date on which any unit owned or operated by the applicant becomes a Phase I or Phase II unit. (5) If the applicant is an independent power producer and sells qualified renewable energy generation to another utility, the generation was sold pursuant to the purchasing utility's least cost plan. Applicant has submitted supporting documentation.

I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information. I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.

Name of Certifying Official Andrew H. Aitken Vice President & Direct Title Environ. and Safety
Signature Date 3/26/93

EPA Form 7610-10 (1-93)

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NH.PUC*09/21/93*[75209]*78 NH PUC 530*Springwood Hills Water Company, Inc.

[Go to End of 75209]

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Re Springwood Hills Water Company, Inc.

DE 90-051
Order No. 20,971
78 NH PUC 530

New Hampshire Public Utilities Commission

September 21, 1993

Order Superseding Order No. 20,968.

BY THE COMMISSION:

ORDER

On May 17, 1991, the New Hampshire Public Utilities Commission (Commission) issued Order No. 20,134 approving a stipulation between its Staff and Springwood Hills Water Company, Inc. (Company) concerning permanent rates for water service rendered in that portion of the Town of Londonderry, New Hampshire known as Springwood Hills; and

WHEREAS, in addition to the issuance of permanent rates, the stipulation approved by the Commission addressed the installation of water meters at Springwood Hills; and

WHEREAS, the stipulation called for submission of a metering plan to the Commission providing for the installation of individual meters over a period of four years; and

WHEREAS, on December 31, 1992, the Company submitted a proposed residential water metering plan for approval by the Commission which proposed that all water meters be installed

prior to April 1996; and

WHEREAS, Staff has had an opportunity to review the metering plan; and

WHEREAS, on September 13, 1993, the Commission issued Order No. 20,968 requiring the Company to install meters to reduce peak usage, avoid potential backflow situations and possibly alleviate the need for booster pumps on certain low pressure services; and

WHEREAS, upon further review, the Commission finds that the immediate installation of booster pumps to low pressure services would not lead to potential backflow situations nor will the installation of meters alleviate the need for these booster pumps because they are largely needed due to undersized service connections to the customers' homes leading to insufficient pressure at the customers' meters; and

WHEREAS, Puc 603.05 (a) states that "[a]ll water sold by a utility shall be billed pursuant upon the basis of metered volume sales unless specific commission approval is granted by the commission for unmetered service"; and

WHEREAS, the services installed to provide water service to the homes with inadequate water pressure violate N.H. Admin. R., Env-Ws 372.21 (a), and the most cost effective means of alleviating the pressure problems are the installation of individual booster pumps; and

WHEREAS, the Commission received approximately 10 complaints relative to a lack of water pressure at Springwood Hills during the months of June, July and August of 1993, including complaints of a complete lack of water pressure; and

WHEREAS, our engineering Staff reports that the system is more than adequately designed to meet the normal operating needs of a typical community of this size excluding certain customers located at high elevations with long undersized service connections which result in a complete loss of water pressure at peak usage, and

WHEREAS, the installation of individual meters with back flow preventers and the institution of a metered rate should reduce consumption thereby reducing peak usage and the installation of booster pumps will provide customers with adequate pressure; and

WHEREAS, in any event the meters would provide backflow prevention and send the proper price signals to customers; it is hereby

ORDERED, that Springwood Hills Water Company, Inc.'s proposed meter installation plan is rejected; and it is

FURTHER ORDERED, that Springwood Hills Water Company, Inc. install meters in all residential dwelling units located in the area served by the Company no later than April 30, 1994, and provide the Commission with a proposed metered rate by the same date, or show cause why said meters should not be installed; and it is

FURTHER ORDERED, that Springwood Hills Water Company, Inc. install booster pumps at those homes where residual pressure is deemed inadequate within 45 days of the date of this order; and

FURTHER ORDERED, that upon installation of the meters, the company shall submit a proposed consumption rate governing the provision of water service on the basis of metered volume sales; and it is

FURTHER ORDERED, that the Company indicate its acquiescence in this order or request a hearing to show cause why this order should not take effect by September 28, 1993.

By order of the New Hampshire Public Utilities Commission this twenty-first day of September, 1993.

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NH.PUC*09/21/93*[75210]*78 NH PUC 531*ATC Long Distance

[Go to End of 75210]

Re ATC Long Distance

DE 93-153

Order No. 20,972

78 NH PUC 531

New Hampshire Public Utilities Commission

September 21, 1993

Order *Nisi* Approving Discounted Service For Telecommunications Relay Service.

BY THE COMMISSION:

ORDER

On August 25, 1993, ATC Long Distance (ATC), filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to add Telecommunications Relay Service (TRS), a discount service for the hearing and speech impaired; and

WHEREAS, this service provides a discount on toll charges for customers who are deaf, hard of hearing or speech impaired and who place a call through the New Hampshire Telecommunications Relay Service (NHTRS) and select ATC to carry the call; and

WHEREAS, this service will apply to calls that originate and terminate in New Hampshire; and

WHEREAS, customers who wish to qualify for this discount must provide written application and certification of a speech or hearing impairment to ATC; and

WHEREAS, a customer placing a call through NHTRS will receive a 50% discount from ATC's Dial USA rates for usage up to \$999.99 per month, and this discount will apply to all intrastate calls originated and billed to the designated telephone number of the customer who is deaf, hard of hearing or speech impaired; and

WHEREAS, the proposed tariff changes expand the choice of telephone service to New Hampshire customers, thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby;

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 18, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, ATC cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than October 1, 1993 and it is to be documented by affidavit filed with this office on or before October 18, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of ATC Tariff No. 1 - are approved:

4th Revised Page No. 1.1

Original Page No. 37.4;

and it is

FURTHER ORDERED, that ATC file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective October 21, 1993, unless the Commission provide otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-first day of September, 1993.

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NH.PUC*09/21/93*[75211]*78 NH PUC 532*Long Distance North

[Go to End of 75211]

Re Long Distance North

DE 93-156

Order No. 20,973

78 NH PUC 532

New Hampshire Public Utilities Commission

September 21, 1993

Order *Nisi* Approving The Addition Of Operator Service.

BY THE COMMISSION:

ORDER

On August 27, 1993, Long Distance North (LDN), a reseller of intrastate long distance telephone service, filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to add Operator Service; and

WHEREAS, this service offers operator-assisted calls subject to the availability of necessary facilities and equipment; and

WHEREAS, any consumer using this service may obtain, upon request, and at no charge, a verbal description of the rates and charges associated with a call; and

WHEREAS, the proposed tariff changes expand the choice of telephone service to New Hampshire customers, thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby;

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 18, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, LDN cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than October 1, 1993 and it is to be documented by affidavit filed with this office on or before October 18, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of LDN Tariff No. 1 - are approved:

2nd Revised Page 2

2nd Revised Page 4

1st Revised Page 9

Original Page 34,35,36,37,38,39,40;

and it is

FURTHER ORDERED, that LDN file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective October 21, 1993, unless the Commission provide otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-first day of September, 1993.

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NH.PUC*09/21/93*[75212]*78 NH PUC 532*AT&T Communications of New Hampshire, Inc.

[Go to End of 75212]

Re AT&T Communications of New Hampshire, Inc.

DE 93-158
Order No. 20,974
78 NH PUC 532

New Hampshire Public Utilities Commission

September 21, 1993

Order *Nisi* Approving Operator Service Collect Calling.

BY THE COMMISSION:

ORDER

On August 30, 1993, AT&T Communications of New Hampshire, Inc. filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce an Operator Service Collect Calling Promotion; and

WHEREAS, this promotion is proposed to take effect on September 29, 1993 and end on December 31, 1993; and

WHEREAS, Operator Service Collect Calling is a promotional offering for collect calls placed by customers utilizing an AT&T provided access number; and

WHEREAS, the proposed tariff expands the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

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WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 18, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than October 1, 1993 and is to be documented by affidavit filed with

this office on or before October 18, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff page of AT&T Tariff No. 4 - Section 1, AT&T Long Distance Service - is approved:

1st Revised Page 28.1; and it is

FURTHER ORDERED, that AT&T file a properly annotated tariff page in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective October 21, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-first day of September, 1993.

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NH.PUC*09/21/93*[75213]*78 NH PUC 533*Great Bay Power Corporation

[Go to End of 75213]

Re Great Bay Power Corporation

DF 93-132

Order No. 20,975

78 NH PUC 533

New Hampshire Public Utilities Commission

September 21, 1993

Order Granting Authorization to Implement a Plan of Reorganization for Great Bay Power Corporation.

BY THE COMMISSION:

ORDER

WHEREAS, on July 9, 1993, Great Bay Power Corporation, ("Great Bay Power") and the Official Bondholders' Committee of Great Bay Power, (the "Committee"), filed a joint petition authorization for Great Bay Power (a) to issue securities, (b) to engage in business as a public utility, (c) to transfer control over its system and (d) mortgage its property, to the extent that such authority is required under RSA 369:1, 369:2, 369:7, 374:22, and 374:30, or, in the alternative, for an order that the Commission has no jurisdiction over the implementation of the Committee's Fifth Amended Plan of Reorganization (the "Plan"); and

WHEREAS, Great Bay Power, an exempt wholesale generator, is a New Hampshire corporation formed in 1985 and authorized by the Commission pursuant to New Hampshire Revised Statutes Annotated ("RSA") §§ 374:22 and 374:26 to engage in business in New Hampshire as a public utility solely for the purpose of participating as a joint owner in the

construction of the Seabrook Nuclear Power Project ("Seabrook") and upon completion of construction, for the purpose of selling its share of the output of Seabrook for resale; and

WHEREAS, Great Bay Power's principal asset is an undivided 12.1324% interest in Seabrook ("Seabrook Interest"); and

WHEREAS, the Seabrook Interest is collateral for the Notes issued by Great Bay Power; and

WHEREAS, Great Bay Power is in default under the indenture pursuant to which the Notes were issued; and

WHEREAS, on February 28, 1991, Great Bay Power filed a Chapter 11 Petition in the United States Bankruptcy Court for the District of New Hampshire; and

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WHEREAS, the Committee has formulated a plan of reorganization; and

WHEREAS, on December 21, 1992, the Committee filed the Plan, which calls for the issuance of securities and the assumption of liabilities by the Reorganized Great Bay Power ("Reorganized Great Bay Power"); and

WHEREAS, a disclosure statement for the Plan was filed with the Bankruptcy Court; and

WHEREAS, by order issued March 5, 1993, the Bankruptcy Court approved the plan; and

WHEREAS, under the Plan, Great Bay Power will be reorganized through the conversion of Bondholder debt into equity of Reorganized Great Bay Power; and

WHEREAS, a condition precedent to the initial extension of credit under the financing for the Plan, described below, is that all regulatory approvals necessary for execution, delivery and performance shall be in full force and effect; and

WHEREAS, on December 8, 1992, the Bankruptcy Court authorized Great Bay Power and the Committee to execute, deliver, and perform a settlement agreement (the "Settlement Agreement") with EUA, the then parent of Great Bay Power; and

WHEREAS, the Settlement Agreement provided for a mutual release of claims between Great Bay Power and EUA and its affiliates, a payment by EUA to Great Bay Power of \$20 million, the redemption by Great Bay Power of all its outstanding equity securities from EUA without payment, and an affirmation by EUA of its guaranty of \$10 million of Great Bay Power's decommissioning costs for Seabrook; and

WHEREAS, the Plan contains a detailed description of the proposed transactions; and

WHEREAS, the Plan provides that property of the estate will revert in Reorganized Great Bay Power on the Plan's effective date (the "Effective Date"); and

WHEREAS, in addition, any claim or interest belonging to Great Bay Power will be retained by and will vest in Reorganized Great Bay Power on the Effective Date; and

WHEREAS, reorganized Great Bay Power may enforce, settle or adjust any such claim or interest; and

WHEREAS, reorganized Great Bay Power may use, acquire and dispose of property without

supervision of the Bankruptcy Court and free of any restrictions of the Bankruptcy Code; and

WHEREAS, all existing equity securities of Great Bay Power will be canceled; and

WHEREAS, the secured debt held by the Bondholders will be exchanged for a number of shares of New Securities equal to each Bondholder's *pro rata* share of 85% of the issued and outstanding New Securities; and

WHEREAS, all unsecured claims, including deficiency claims of the Bondholders, in an amount in excess of \$25,000 will be converted into 15% of the New Securities; and

WHEREAS, the holders of unsecured claims of less than \$25,000 will be paid 50% of the allowed amount of their claims in cash upon confirmation of the plan; and

WHEREAS, in order for the Debtor to cover its *pro rata* share of Seabrook-related expenses, until such time as Reorganized Great Bay Power is able to draw upon the revolving line of credit facility, Great Bay Power, the Committee and certain of the other joint owners of Seabrook (the "Participating Joint Owners") entered into a stipulation and consent order (the "1993-1994 Stipulation") pursuant to which the Participating Joint Owners will make advances to Great Bay Power for up to 360 days from the date of the first advance; and

WHEREAS, on March 5, 1993, the Bankruptcy Court entered an order approving the 1993-1994 Stipulation. The 1993-1994 Stipulation was also approved by the Commission in Order No. 20,841, dated May 18, 1993; and

WHEREAS, in addition to the receipt of all regulatory approvals necessary in order to effectuate the Plan, the Plan will

not become effective unless the Committee is able to arrange a revolving line of credit of up to \$45 million; and

WHEREAS, the Plan provides that the Committee must enter into a plan of reorganization financing facility for the purpose of repaying any debt incurred pursuant to the 1993-1994 Stipulation and to pay expenses of Reorganized Great Bay Power following the Effective Date (the "Facility"); and

Page 534

WHEREAS, the terms of the financing must be similar to or no less favorable to the terms described in the expired commitment letter dated July 21, 1992 from Shearson Lehman Brothers, Inc. ("Lehman Brothers"); and

WHEREAS, the proposed structure of the Lehman Brothers Facility is as follows:

a. The Facility would be in the principal amount of \$45 million and would be open for approximately five years, from the Effective Date of the Plan through a final maturity date of September 30, 1998.

b. Reorganized Great Bay Power may draw on the Facility for the purposes of (i) repaying any outstanding debtor-in-possession loans, which would include any 1993-1994 Stipulation advances; (ii) funding Reorganized Great Bay Power's share of expenses for Seabrook; (iii) paying fees under the Facility; (iv) paying interest on

advances made under the Facility; (v) paying closing and reorganization expenses; and (vi) for general corporate purposes.

c. The interest rate will be based upon Chase Manhattan Bank prime rate or the London International Market plus a number of basis points to be negotiated with the participants in the Facility. Interest will be payable monthly.

d. The Facility will be secured by a first lien on all real and personal property of Great Bay Power. Events of default will be defined to include events of default that are customary for commercial financing facilities. The participants in the Facility ("the Lenders") holding at least 66.7% of the principal amount of Facility, may enforce the lien.

e. Great Bay Power will pay a closing fee equal to 1% of the amount of the Facility and commitment and servicing fees, each in the amount of one-half of 1% per year on the average daily unused amount of the Facility. The servicing fee is paid to Lehman Brothers and the commitment and closing fees to the Lenders. Additionally, Great Bay will pay Lehman Brothers a fee equal to 2.25% of the amount of the Facility as a placement fee.

f. Borrowings under the Facility must be prepaid with any proceeds of casualty insurance, condemnation, and sales of assets outside of the ordinary course of business. All cash held by Great Bay Power in excess of \$500,000 on the fifth day of any month must also be used to reduce borrowings under the Facility.

g. Mandatory prepayments as described above will result in a reduction of the Facility. All amounts repaid other than prepayments described in the first sentence of subparagraph (f) above may be reborrowed. Great Bay Power may also opt to reduce the Facility to as little as \$35 million.

h. At the commencement of the Facility, Great Bay Power will issue an amount of New Securities to the Lenders equal to either 5% of Great Bay Power's then outstanding common stock or 5% of the common stock of Great Bay Power on a fully diluted basis, unless regulatory approvals for the issuance of such common stock cannot be obtained, in which case Great Bay Power will make a cash payment to the Lenders in an amount equal to the value of such shares. In the event that the amount borrowed under the Facility at any times exceeds \$35 million, participants will receive an additional 5% of the common stock of Great Bay Power (on a fully diluted basis). A registration rights agreement will require Great Bay Power to register such shares upon demand of the Lenders at any time after June 30, 1994.

i. Although rights under the Facility will be assignable (subject to minimal assignment of \$5 million) and

Lenders may sell participations, assignment will require Reorganized Great Bay Power's consent and Lenders will remain responsible for commitments regardless of any participations.

j. Various conditions to the initial extension of

credit include completion of due diligence and documentation and receipt of all necessary regulatory and judicial approvals. Conditions of each extension of credit under the Facility include no events of default having occurred under the Plan or the Facility and no material adverse change in the condition of Great Bay Power having occurred.

k. The Facility will also require certain operating revenue and asset coverages. The ratio of cash revenue to cash operating expenses at the end of each fiscal quarter, for the preceding four quarters, must not be less than 0.9 beginning on June 30, 1996 and 1.0 beginning on June 30, 1997. The value of Great Bay's assets must equal at least 150% of average borrowings under the Facility on December 31, 1994 and 200% on each December 31 beginning in 1995.

l. Negative covenants will include prohibitions on merger and sale of assets, creation of indebtedness in excess of \$5 million, creation of any indebtedness that is not subordinate to the Facility, payment of dividends, amendment of the JOA, and allowing prolonged shutdowns except for refueling; and

WHEREAS, obtaining the \$45,000,000 post-confirmation Facility is a condition precedent to the Effective Date of the Plan occurring. Conversely, the initial extension of credit under the Facility is conditioned upon the receipt of all regulatory and governmental approvals necessary for the execution, delivery and performance of the Facility; and

WHEREAS, Great Bay Power and the Committee request that if the Commission does not determine that its exercise of jurisdiction is preempted by federal law, that the Commission:

a. Authorize the issuance of the New Securities to Bondholders, unsecured creditors of Great Bay Power, and Lenders, finding it is consistent with the public good pursuant to RSA 369:1;

b. Determine that because Great Bay Power is authorized by the Commission pursuant to RSA 374:22 and 26 to engage in business as a public utility, Reorganized Great Bay Power need not obtain such authority, because it will have been the same corporation before, during and after its emergence from bankruptcy; or, alternatively, find that engaging in such business would be for the public good and grant Reorganized Great Bay Power such permission pursuant to RSA 374:22 and 374:26;

c. Determine that the reorganization of Great Bay Power in accordance with the Plan will not constitute the transfer or lease of a public utility franchise or system within the meaning of RSA 374:30 because the "revesting" of Great Bay Power's property in Reorganized Great Bay Power on the Effective Date does not constitute an actual transfer of property under New Hampshire property law and is a conceptual resumption of a reorganized debtor's interest in property for the purposes of the Bankruptcy Code only. RSA 374:32, which requires 2/3 vote of the shares of each corporation that is a party to a utility system lease or transfer, demonstrates the inapplicability of RSA 374:30 to the Plan, in which there are no "parties" to a transfer; or, alternatively, find, pursuant to RSA 374:30, that the reorganization of Great Bay Power will be for the public good;

d. Authorize the issuance of a note or notes to Lenders in accordance with the

foregoing description of the Facility, pursuant to RSA 369:1, and issuance of New

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Securities to the Lenders finding such issuance and sale consistent with the public good, and the mortgage of Reorganized Great Bay Power's property to secure the payment of such notes, pursuant to RSA 369:2; and

e. Grant such additional authorization it deems necessary to permit the Plan to be implemented in accordance with its terms and the confirmation order of the Bankruptcy Court; and

WHEREAS, the Commission finds it has jurisdiction over the reorganized Great Bay Power as defined by the reorganization plan and the issuance of securities under RSA 369:1; it is hereby ORDERED, that Great Bay Power is authorized to issue the new securities to Bondholders, unsecured creditors of Great Bay Power, and Lenders, defined with the plan of reorganization and is consistent with the public good pursuant to RSA 369:1; and it is, FURTHER ORDERED, that Great Bay Power is authorized to engage in business as a public utility, and that the Reorganized Great Bay Power need not obtain such authority because it will be the same corporation before, during and after its emergence from bankruptcy; and it is

FURTHER ORDERED, that Great Bay Power's reorganization will not constitute the transfer or lease of a public utility franchise or system within the meaning of RSA 374:30 because the "revesting" of Great Bay Power's property in Reorganized Great Bay Power on the Effective Date does not constitute an actual transfer of property under New Hampshire property law and is a conceptual resumption of a reorganized debtor's interest in property for the purposes of the Bankruptcy Code only; and it is

FURTHER ORDERED, that Great Bay Power is authorized to issue a note or notes to Lenders in accordance with the foregoing description of the facility, pursuant to RSA 369:1, and the issuance of New Securities to lenders is consistent with the defined plan of reorganization, and the mortgage of Reorganized Great Bay Power's property to secure the payment of such notes, pursuant to RSA 369:2; and it is

FURTHER ORDERED, that Great Bay Power Corporation be and hereby is granted authorization to issue long-term debt in the amount of approximately \$45,000,000 within the terms described in its petition; and it is

FURTHER ORDERED, that Great Bay Power Corporation file with the Commission a detailed description of the terms of the long-term debt issued in accordance with this order immediately following such issuance.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of September, 1993.

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NH.PUC*09/22/93*[75214]*78 NH PUC 537*AT&T Communications of New Hampshire, Inc.

[Go to End of 75214]

Re AT&T Communications of New Hampshire, Inc.

DE 93-154
Order No. 20,976
78 NH PUC 537

New Hampshire Public Utilities Commission

September 22, 1993

Order *Nisi* Approving Revisions To The Current Tariff.

BY THE COMMISSION:

ORDER

On August 27, 1993, AT&T Communications of New Hampshire, Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) revisions to its Tariff No. 1; and

WHEREAS, the proposed filing seeks to change the name of "Volume Discount" service to "Discount Plans"; and

WHEREAS, this filing also introduces a new billing for Software Defined Network Service (SDN) customers, which guarantees SDN calls will be billed within 120 days after the date the call is placed; and

WHEREAS, AT&T is offering a 15% discount under AT&T 800 Plan P Evening and Night/Weekend usage if the AT&T 800 Plan P Customer concurrently subscribes to all AT&T Long Distance Message Telecommunications Service Dial Station Service; and

WHEREAS, AT&T proposed the filing become effective September 27, 1993; and

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WHEREAS, the proposed tariff changes expand the choice of telephone service to New Hampshire customers, thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby;

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 19, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such

publication to be no later than October 1, 1993 and it is to be documented by affidavit filed with this office on or before October 19, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of AT&T Tariff No.1 - Custom Network Services - are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Table of Contents	3rd Revised	Page 3
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Section 1	-
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Section 7	-
Section 8	-
Section 9	-
Section 13	-

and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective October 22, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-second day of September, 1993.

=====

NH.PUC*09/22/93*[75215]*78 NH PUC 538*Southern New Hampshire Water Company, Inc.

[Go to End of 75215]

Re Southern New Hampshire Water Company, Inc.

DR 89-224
Order No. 20,977
78 NH PUC 538

New Hampshire Public Utilities Commission
September 22, 1993

Recoupment of Rate Case Expenses Relating to the Appeal of the Office of Consumer Advocate.

 BY THE COMMISSION:

ORDER

On August 23, 1993, Southern New Hampshire Water Company, Inc. submitted tariff pages with revisions to account for the recoupment of additional rate case expenses relating to the Appeal of the Office of Consumer Advocate; and

WHEREAS, Southern New Hampshire Water Company, Inc. is requesting recoupment of additional rate case expenses in the amount of \$32,367.27; and

WHEREAS, Southern New Hampshire Water Company, Inc. is stating that the additional rate case expenses to be recouped will extend the period of recovery, but will not result in a change in the rate itself; and

WHEREAS, more discovery time is needed by the Commission Staff to investigate the submitted rate case expenses; and

WHEREAS, Southern New Hampshire Water Company, Inc. wrote-off the surcharge on Amherst customers upon the sale of the Amherst system to Pennichuck Water Works, Inc. last year, and has submitted a revised tariff page cancelling the surcharge on Amherst customers; and

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WHEREAS, the tariff, NHPUC No. 8 - Water, Third Revised Page 69 is no longer relevant to the customers of Southern New Hampshire Water Company, Inc.; it is hereby

ORDERED, that Southern New Hampshire Water Company, Inc., NHPUC No. 8 - Water, Fourth Revised Page 70 and Fourth Revised Page 71 are hereby suspended pending investigation; and it is

FURTHER ORDERED, that Southern New Hampshire Water Company, Inc. tariff page NHPUC No. 8 - Water, Fourth Revised Page 69 is accepted as proposed.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of September, 1993.

=====
 NH.PUC*09/27/93*[75216]*78 NH PUC 539*EnergyNorth Natural Gas, Inc.

[Go to End of 75216]

Re EnergyNorth Natural Gas, Inc.

DR 93-161
 DA 92-199
 Order No. 20,978
 78 NH PUC 539

New Hampshire Public Utilities Commission

September 27, 1993

Financial Accounting Standard 106-Employers' Accounting for Postretirement Benefits Other than Pensions.

BY THE COMMISSION:

Order Approving Rate Adjustment for Postretirement Benefits Other than Pensions

ORDER

WHEREAS, in December 1990, the Financial Accounting Standards Board (FASB) released its Statement of Financial Accounting Standards No. 106, Employers Accounting for Postretirement Benefits other than Pensions (PBOP); and

WHEREAS, the standard applies to all companies that prepare financial statements in accordance with generally accepted accounting principles (GAAP), i.e. all publicly traded companies and others whose lenders require financial statements; and

WHEREAS, the standard is effective for fiscal years beginning after December 15, 1992, to all companies who have more than 500 plan participants; and

WHEREAS, EnergyNorth Natural Gas, Inc., (EnergyNorth) was a signatory to the stipulation agreement approved by the Commission on April 5, 1993, in docket DA 92-199 which set forth the accounting and ratemaking treatment for postretirement benefits other than pensions; and

WHEREAS, on September 23, 1993, EnergyNorth filed tariff sheets reflecting the implementation of the FAS 106 expenses in compliance with Order No. 20,806 in Docket DA 92-199; and

WHEREAS, Order No. 20,806 provided that the incremental PBOP expense over the previous pay-as-you-go method could be recovered in rates effective October 1, 1993; and

WHEREAS, EnergyNorth filed schedules dated August 13, 1993, detailing the calculation of the incremental PBOP expense in the amount of \$609,572; and

WHEREAS, as a result of investigations by Staff, EnergyNorth filed revised tariff pages dated September 23, 1993, extending the increase in rates totaling \$609,178 or 0.84%, to all customer classes effective October 1, 1993; it is hereby

ORDERED, that EnergyNorth is authorized to increase rates by \$609,178 or 0.84%, to provide for the implementation of FAS 106 Postretirement Benefits Other than Pensions, as approved by Order No. 20,806 in Docket DA 92-199; and it is

FURTHER ORDERED, that EnergyNorth shall implement the rates submitted in the revised compliance filing dated September 23, 1993, on all bills for service rendered on after October 1, 1993; and it is

FURTHER ORDERED, that external funding of these costs shall be handled by an independent trustee and that deposits to such irrevocable trust funds shall be made on a quarterly basis; and it is

FURTHER ORDERED, that the irrevocable trust fund shall be allowed to make payment from its assets for the following reasons only:

- A) Employee Benefit Payments
- B) Expenses of the Trust
- C) Commission Approved Customer Refund Plan

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FURTHER ORDERED, that the company submit to the Commission annually a report covering the complete accounting activity of said trust fund, along with any changes in the actuarial assumptions utilized by the plan's actuaries in computing the projected future costs of the plan

By order of the New Hampshire Public Utilities Commission this 27th day of September, 1993.

=====

NH.PUC*09/27/93*[75217]*78 NH PUC 540*New England Telephone

[Go to End of 75217]

Re New England Telephone

DR 93-159

Order No. 20,979

78 NH PUC 540

New Hampshire Public Utilities Commission

September 27, 1993

Order *Nisi* Addressing Business Package, Business Package Plus and Customized NETSAVER Plans.

BY THE COMMISSION:

ORDER

On September 1, 1993, New England Telephone (NET) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce three new Optional Calling Plans (OCPs) targeted toward the high and medium volume toll customer; and

WHEREAS, on August 2, 1993, the Commission issued Order No. 20,916 in docket DE 90-002 approving the Modified Stipulation and Agreement Between the Parties of July 29, 1993 (the Modified Stipulation); and

WHEREAS, the Modified Stipulation shall govern New Hampshire's transition from a monopoly to a competitive intrastate toll market; and

WHEREAS, Attachment 4 §B of the Modified Stipulation allows NET to revise the terms and conditions of existing services and introduce new services subject to certain pricing rules; and

WHEREAS, the proposed OCPs include Customized NETSAVER Plan, Business Package and Business Package Plus. Customized NETSAVER offers customers contracts for service commitments of 24 or 36 months and a minimum monthly usage commitment, based on direct dialed toll, or 800 and 800 VALUFLEX, or combined usage. The Business Package and Business Package Plus plans charge customers a monthly rate to receive a percentage discount applied to the total combined usage charges for MTS and 800 VALUFLEX service at the customer's location; and

WHEREAS, the Commission Staff (Staff) has reviewed the filing for conformance with terms of the Modified Stipulation and general filing requirements; and

WHEREAS, after Staff investigation, which includes the review of the petition and responses to Staff data requests, Staff concluded the filing falls within a zone of reasonableness, as contemplated by Attachment 4 §B.3 of the Modified Stipulation; and

WHEREAS, NET has demonstrated that effects of these OCPs produce average revenues per minute in compliance with the price floor tests when calculated to include minutes of use from the entire segment, and

WHEREAS, the Staff has notified the Commission that some signatories to the Modified Stipulation believe the Customized NETSAVER Plan does not comport with the pricing rules of Attachment 4 §B.1; and

WHEREAS, after reviewing the petition and the Staff recommendation, the Commission finds the Business Package and Business Package Plus Plans to be in the public good and to meet the terms of the Modified Stipulation; and

WHEREAS, the Commission seeks input of any signatory or other interested person no later than Friday, October 8, 1993 as to whether the Customized NETSAVER Plan complies with the terms of the Modified Stipulation, Attachment 4 ; it is therefore

ORDERED *NISI*, that the following tariff pages of New England Telephone are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC - No. 75
Part A Section 9 -

and it is

FURTHER ORDERED, that decision on the following tariff pages of New England Telephone are deferred until the Commission

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has reviewed any comments filed in regards to the Customized NETSAVER Plan:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC - No. 75
Part A Section 9 -
 Original Pages 74 through 76
 Section 10 -

and it is

FURTHER ORDERED, that for the Business Package and Business Package Plus Plans, NET shall gather and maintain data on the revenue and minutes of use generated from these OCPs on a level of detail sufficient to evaluate average revenue per minute for MTS and VALUFLEX separately in this segment; and it is

FURTHER ORDERED, that for the Customized NETSAVER Plan, pursuant to Attachment 4 §B.3 NET shall gather and report data for the first two quarters that Customized NETSAVER Plan is offered, to ensure that the average revenue per minute actually generated meets the price floor; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, NET shall send an attested copy of this Order *Nisi* by facsimile no later than September 28, 1993 to all those listed on the DE 90- 002 service list and shall cause an attested copy of this Order *Nisi* to be published once in a newspaper having statewide circulation, such publication to be no later than October 1, 1993 and to be documented by affidavit filed with this office on or before October 15, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than October 8, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective November 1, 1993, unless the Commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of September, 1993.

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NH.PUC*09/27/93*[75218]*78 NH PUC 541*Generic Investigation into IntraLATA Toll Competition Access Rates

[Go to End of 75218]

Re Generic Investigation into IntraLATA Toll Competition Access Rates

DE 90-002
Order No. 20,980
78 NH PUC 541

New Hampshire Public Utilities Commission
September 27, 1993

Order Authorizing Access Rates For All New Hampshire Local Exchange Carriers.

BY THE COMMISSION:

ORDER

On June 3, 1993, the Commission issued Report and Order No. 20,864 (Order) approving a settlement agreement setting out, *inter alia*, the transition to intrastate toll competition in New Hampshire and a schedule of access rates to be paid to the Local Exchange Companies entered into by Staff and the parties to this proceeding. However, the Order approving the agreement was conditioned on certain modifications necessary to protect the public interest based on the record of the proceeding to date.

WHEREAS, all of the signatories accepted the modifications required for Commission approval; and

WHEREAS, on August 2, 1993 the Commission issued Report and Order No. 20,916 approving the Modified Stipulation and Agreement Between the Parties of July 29, 1993; and

WHEREAS, Staff has reviewed the tariff filings of the Local Exchange Carriers for compliance with the above Orders; and

WHEREAS, Staff has determined that New England Telephone Company (NET) NHPUC Tariff No. 78, as revised, complies with Order No. 20,864, and

WHEREAS, Staff has identified two minor areas in NET's tariff which do not comply with the New Hampshire Administrative Code (N.H. Admin. Rules), to wit, Puc 403.04 (b) and 403.06 (b) 2.d; and

WHEREAS, many of the proposed tariff pages submitted by the Independent Local Exchange Carriers (Independents) require substantial revision to comply with our prior Orders; and

WHEREAS, Bretton Woods Telephone, Dixville Telephone, Dunbarton Telephone Company, Granite State Telephone, Inc., Mer-

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rimack County Telephone Company and Wilton Telephone Company have included an information surcharge in the switched access rate which raises the switched access rate per minute above the rate agreed to in the Modified Stipulation Agreement; it is hereby

ORDERED, that NET's Tariff No. 78, as revised, complies with Order No. 20,864 in all but two minor respects and will be approved upon resolution of those issued; and it is

FURTHER ORDERED, that NET refile tariff pages in compliance with the N.H. Admin. Rules Puc 403.04 (b) and 403.06 (b) 2.d cited above or, in the alternative, request a waiver of those rules; and it is

FURTHER ORDERED, that the rates in the tariff pages of Chichester Telephone Company, Kearsarge Telephone Company, Meriden Telephone Company and Union Telephone Company submitted on September 3, 1993 and the rates in the tariff pages of GTE submitted September 3,

and September 24, 1993, shall be effective October 1, 1993; and it is

FURTHER ORDERED, that Bretton Woods Telephone, Dixville Telephone, Dunbarton Telephone Company, Granite State Telephone, Inc., Merrimack County Telephone Company and Wilton Telephone Company delete reference to rates for an information surcharge contained in tariff pages detailing the switched access rates provided to Staff by facsimile on September 24, 1993, and that the rates, excluding the information surcharge, provided on September 24, 1993, shall be effective October 1, 1993; and it is

FURTHER ORDERED, that if any of the Independents wish to include an information surcharge in the intrastate access tariff that a revised tariff page be submitted to the Commission in accordance with the N.H. Admin. Rules so that a docket may be opened to properly address the issue; and it is

FURTHER ORDERED, that Staff work with NET and the Independents to assure that revisions to the proposed tariffs required for compliance are completed.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of September, 1993.

=====

NH.PUC*09/27/93*[75219]*78 NH PUC 542*New Hampshire Electric Cooperative, Inc.

[Go to End of 75219]

Re New Hampshire Electric Cooperative, Inc.

DR 93-124

Order No. 20,981

78 NH PUC 542

New Hampshire Public Utilities Commission

September 27, 1993

Report Addressing Temporary Rates and Procedural Schedule.

Appearances: Broderick and Dean by Mark W. Dean, Esq. on behalf of the New Hampshire Electric Cooperative, Inc.; Office of the Consumer Advocate by James R. Anderson, Esq. on behalf of Residential Ratepayers; and Eugene F. Sullivan III, Esq. on behalf of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On July 30, 1993, the New Hampshire Electric Cooperative, Inc. (NHEC) filed a petition with the New Hampshire Public Utilities Commission (Commission) requesting a base rate

increase of 1.44% pursuant to RSA chapter 378. On that same date, the NHEC also filed a petition for temporary rates pursuant to RSA 378:27 seeking a temporary base rate increase in the same amount as its permanent rate request.

On August 26, 1993, the Commission issued Order No. 20,946 scheduling a hearing for September 15, 1993, to establish a procedural schedule to govern the Commission's investigation into the reasonableness of the proposed rate increase and to hear the merits of the request for temporary rates.

At the September 15, 1993, hearing the Office of the Consumer Advocate (OCA), NHEC and the Staff stipulated to a proposed procedural schedule, and the NHEC presented testimony in support of its request for temporary rates.

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III. POSITIONS OF THE PARTIES AND STAFF

A. NHEC

NHEC took the position that its request for temporary rates should be granted because it would improve its Times Interest Earnings Ratio (TIER) thereby improving its financial condition improving its ability to refinance its debt obligations with the National Rural Utilities Cooperative Financing Corporation (CFC) at a lower rate reflecting current market conditions. The NHEC went on to state that a 1.44% temporary rate increase at this time would be offset by the discontinuance of a rate surcharge currently in place providing its members with rate continuity.

B. OCA

The OCA conceded that temporary rates may be appropriate at some point in the future but not at this time.

C. Staff

Staff took no position. IV. COMMISSION ANALYSIS

The issues before the Commission are whether it should, in its discretion, approve the stipulated procedural schedule and grant the requested temporary rate increase of 1.44%.

In regard to the stipulated procedural schedule, we direct the General Counsel to work with the Parties and Staff to consider whether an alternative procedural schedule might be appropriate in this case and to report back to us by October 1, 1993 on the results of those discussions.

In regard to the issue of temporary rates, RSA 378:27 states in pertinent part that the Commission "may,... if it be of the opinion that the public interest so requires, immediately fix, determine and prescribe for the duration of said proceeding reasonable temporary rates...." Thus, we must determine whether temporary rates are in the public interest. The testimony at the temporary rate hearing established that temporary rates would improve the NHEC's possibility of refinancing its debt with the CFC by increasing its TIER coverage closer to the industry average. This in turn would again improve the NHEC's TIER coverage improving its overall financial health. Given the recent financial history of this Cooperative we believe it will indeed serve the public interest to place the NHEC on sound financial footing.

We will, therefore, grant the requested temporary rate increase of 1.44% equally allocated to each of the current rate categories.

Our order will issue accordingly.

Concurring: September 27, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the General Counsel work with the Staff, the Office of the Consumer Advocate and the New Hampshire Electric Cooperative, Inc. to consider whether an alternative procedural schedule might be appropriate in this case and report back to the Commission by October 1, 1993 on the results of those discussions.

FURTHER ORDERED, that the New Hampshire Electric Cooperative, Inc. is granted a temporary rate increase 1.44% above current base rates for the duration of this proceeding.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of September, 1993.

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NH.PUC*10/01/93*[75221]*78 NH PUC 556*West Coast Telecommunications of New Hampshire, Inc.

[Go to End of 75221]

Re West Coast Telecommunications of New Hampshire, Inc.

DE 93-117

Order No. 20,983

78 NH PUC 556

New Hampshire Public Utilities Commission

October 1, 1993

Order *Nisi* Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On June 8, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from West Coast Telecommunications, Inc., a California corporation, since incorporated in New Hampshire as West Coast Telecommunications of New Hampshire, Inc. (WCT), for authority to do business as a telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze competition during the two-year Trial Period (October 1, 1993 to September 30, 1995) described in Commission Report and Order No. 20,916 (August 2, 1993); and

WHEREAS, the Commission finds that it is in the public good to allow competitors to offer intrastate long distance service during the Trial Period; and

WHEREAS, the Commission finds that WCT demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to this petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 26, 1993; and it is

FURTHER ORDERED, that the petitioner effect notification by publishing an attested copy of the Notice of Conditional Approval

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attached to this Order once in a newspaper having general statewide circulation, publication to be no later than October 11, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before October 26, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 363-A:1, et seq. WCT shall pay all assessments levied upon it by the Commission based on the amount of gross revenues received as a result of doing business in New Hampshire; and it is

FURTHER ORDERED, that WCT may offer as a public utility, telecommunication services for the service territory of the entire State of New Hampshire; and it is

FURTHER ORDERED, *Nisi*, that WCT hereby is granted authority to offer intrastate long distance services in the state of New Hampshire subject to the following conditions:

1. that the services shall be offered only by approved tariffs, as subsequently amended, and shall be offered only on an interim basis until completion of the Trial Period, at which time the authority granted herein may be revoked or continued on the same or different basis;

2. that WCT shall file tariffs for new services and changes in approved services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;

3. that WCT shall notify the Commission of a change in rates of approved services to be charged the public within one day after offering the service at rates other than the rates on file with the Commission;

4. that WCT is exempt from NH Admin. Rules, Puc 406.03 Accounting Records; Puc 407 Forms Required of All Telephone Utilities; and Puc 409 Uniform System of Accounts for Telecommunications Companies;

5. that WCT shall maintain its books and records in accordance with Generally Accepted Accounting Principles;

6. that WCT shall file each calendar year an Annual Report, consisting of: a Balance Sheet and Statement of Operations and an Information Sheet, reflecting to whom the N.H. Utility Assessment should be mailed and a Listing of Corporate Officers and Titles;

7. that WCT shall be subject and responsible for adhering to all statutes and administrative rules including those related to quality and terms and conditions of service, disconnections, deposits and billing, except those specifically waived herein;

8. that WCT shall be subject to all reporting requirements contained in RSA 374:13-19 and any filing or reporting requirements imposed by the Commission in this or subsequent orders;

9. that WCT shall compensate the appropriate Local Exchange Company for all originating and terminating access used by WCT pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies;a) b)

10. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

11. that during the Trial Period, WCT shall within 60 days following the end of calendar quarter, report on a confidential basis, except where noted, monthly statistics, for each month the service is offered, the following information:

a. For each intrastate toll service offered:

(1) number of subscribers in NH who have intrastate usage will be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

(2) intrastate minutes of use;

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(3) intrastate revenue;

(4) type of access arrangement used;

(5) for services that use different access arrangements (e.g. SDN) the percentage of use relative to each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

(6) whether the service is residential or business or both. Item a.(6) is not confidential.

b. On an aggregate basis, intrastate minutes and access charges actually paid to each LEC;

c. The intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and for special access arrangements;

d. The number of interstate and intrastate special access arrangements stated by channel capacity;

e. The intrastate conversation minutes of use terminated, reported separately by service, for

switched access arrangements, and for special access arrangements;

f. As a percentage of total intrastate conversation minutes of use, the amount of intrastate traffic that was both originated and terminated over switched access;

g. For each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

(1) for non-800 services, originating outbound minutes of use;

(2) for 800 services, terminating inbound minutes of use;

(3) average call duration;

(4) type of access arrangement used. Item g.(4) is not confidential;

h. Percentage Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC); and it is

FURTHER ORDERED, that nothing contained in this Order shall be construed to allow WCT to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that WCT file a compliance tariff before beginning operations in accordance with NH Admin. Rules, Puc PART 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective November 1, 1993 unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this first day of October, 1993.

Notice of Conditional Approval of West Coast Telecommunications of New Hampshire, Inc. To Do Business as a Telecommunications Utility in State of New Hampshire

On June 8, 1993, West Coast Telecommunications of New Hampshire, Inc. (WCT) filed with the New Hampshire Public Utilities Commission (Commission) a petition to do business as a telecommunications utility in the State of New Hampshire, specifically to provide intrastate long distance telecommunications services. WCT, a New Hampshire corporation, is affiliated with West Coast Telecommunications, Inc., a California corporation.

In Order No. 20,983, the Commission granted WCT conditional approval to operate

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as of November 1, 1993 subject to the right of the public and interested parties to comment on WCT or its operations before the Order becomes final.

For copies of the petition or Commission order granting conditional approval, please contact the Commission's Executive Director and Secretary at (603) 271-2431, or as noted below. Anyone interested in commenting on WCT's petition to do business in the State should submit written comments no later than October 26, 1993 to:

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission 8 Old Suncook Road Concord, New Hampshire 03301

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NH.PUC*10/05/93*[75222]*78 NH PUC 559*Connecticut Valley Electric Company, Inc.

[Go to End of 75222]

Re Connecticut Valley Electric Company, Inc.

DE 93-119

Order No. 20,984

78 NH PUC 559

New Hampshire Public Utilities Commission

October 5, 1993

Order *Nisi* Granting Authorization for Three Distribution and Twelve Transmission Crossings of The Connecticut Valley Electric Company, Inc. Over Public Waters of the Sugar and Connecticut Rivers in the City of Claremont, New Hampshire and the Town of Woodsville, New Hampshire.

BY THE COMMISSION:

ORDER

On June 11, 1993 Connecticut Valley Electric Company, Inc. (Petitioner) filed with the New Hampshire Public Utilities Commission (Commission) a petition under RSA 371:17 for the initial licensing of fifteen existing aerial electric transmission and distribution lines over and across certain Public Waters in the State of New Hampshire. Subsequently on September 30, 1993, the Petitioner clarified its request; and

WHEREAS, in order to meet the requirements of service to the public, the Petitioner must maintain electric transmission and distribution lines over and across those certain Public Waters, which lines are an integral part of its electrical system; and

WHEREAS, in order to discharge its obligations to the public to provide safe electric service, the Petitioner has reviewed all of its installations of lines across Public Waters; and

WHEREAS, the review has disclosed instances where crossings have not been licensed; and

WHEREAS, the location, construction and design of the crossings the Petitioner is seeking to license are specifically identified in the petition; and

WHEREAS, the definition of "Public Waters" contained in the limited purposes of RSA 371:17 includes "all ponds of more than ten acres, tidewater bodies, and such streams or portions thereof as the Commission may prescribe"; and

WHEREAS, the Commission prescribes these subject crossings to be over and across Public Waters; and

WHEREAS, the fourteen crossings identified as 6a, 6b, 7a, 7b, 7c, 7d, and 7e in the petition,

span the Sugar River in Claremont, New Hampshire, and the crossing identified as 6c in the petition, spans the Connecticut River in Woodsville, New Hampshire; and

WHEREAS, the Connecticut Valley Electric Company, Inc. stated that the fifteen electric line clearances as depicted on Attachments A5, A7, B2 & B9, B3, B4/B5, B8, B10, and A8, respectively, on file with the Commission, exceed the minimum requirements of the National Electrical Safety Code; and

WHEREAS, Staff has verified that these clearances exceed the minimum requirements of the 1993 National Electrical Safety Code; and

WHEREAS, the following tables

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

*Connecticut Valley Petition Information
Sugar River*

Petition
Id.

6a
6b

7a
7a
7b
7c
7c
7c
7c
7c
7c
7d
7d
7e

[Graphic(s) below may extend beyond size of screen or contain distortions.]

*Connecticut Valley Petition Information
Connecticut River*

Petition
Id.

6c

summarizes information regarding these crossings; and

WHEREAS, the Commission finds such water crossings necessary for the Petitioner to meet its obligations to serve customers within its authorized franchise area, thus being in the public good; and

WHEREAS, the public should be offered the opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the

Commission no later than November 1, 1993; and it is

FURTHER ORDERED, that the Petitioner effect said notification by: (1) causing an attested copy of this order to be published no later than October 15, 1993, once in a newspaper having general circulation in the areas where the crossings are located; (2) providing, pursuant to RSA 541-A:22, a copy of this order to the Claremont, New Hampshire City Clerk; the Woodsville, New Hampshire Town Clerk; and the Wells River, Vermont Town Clerk, by First Class U.S. mail, postmarked on or before October 15, 1993; and (3) documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before November 1, 1993; and it is

FURTHER ORDERED *NISI*, that authority be, and hereby is granted, pursuant to RSA 371:17 *et seq.* to the Connecticut Valley Electric Company, Inc. to maintain and operate transmission and distribution lines over and across Public Waters of the State of New Hampshire at the locations described in this docket, effective November 4, 1993 unless the Commission otherwise directs prior to the proposed effective date; and it is

FURTHER ORDERED, that all reconstruction hereafter performed conform to the requirements of the National Electrical Safety Code and all other applicable safety standards in existence at that time.

By order of the New Hampshire Public Utilities Commission this fifth day of October, 1993.

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NH.PUC*10/05/93*[75223]*78 NH PUC 560*Matrix Telecom of New Hampshire, Inc.

[Go to End of 75223]

Re Matrix Telecom of New Hampshire, Inc.

DE 92-245
Order No. 20,985
78 NH PUC 560

New Hampshire Public Utilities Commission

October 5, 1993

Order *Nisi* Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On December 29, 1992, the New Hampshire Public Utilities Commission (Commission) received a petition from Matrix Telecom Inc., a Texas corporation, since incorporated in New Hampshire as Matrix Telecom of New Hampshire, Inc. (Matrix), for authority to do business as a

telecommunications utility in the state of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26.

WHEREAS, the Commission finds that interim authority for intrastate competition in the telecommunications industry is in the public good because it will allow the Commission to analyze competition during the two-year Trial Period (October 1, 1993 to September 30,

Page 560

1995) described in Commission Report and Order No. 20,916 (August 2, 1993); and

WHEREAS, the Commission finds that it is in the public good to allow competitors to offer intrastate long distance service during the Trial Period; and

WHEREAS, the Commission finds that Matrix demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to this petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 1, 1993; and it is

FURTHER ORDERED, that the petitioner effect notification by publishing an attested copy of the Notice of Conditional Approval attached to this Order once in a newspaper having general statewide circulation, publication to be no later than October 15, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before November 1, 1993; and it is

FURTHER ORDERED, that pursuant to RSA 363-A:1, et seq. Matrix shall pay all assessments levied upon it by the Commission based on the amount of gross revenues received as a result of doing business in New Hampshire; and it is

FURTHER ORDERED, that Matrix may offer as a public utility, telecommunication services for the service territory of the entire State of New Hampshire; and it is

FURTHER ORDERED, *Nisi*, that Matrix hereby is granted authority to offer intrastate long distance services in the state of New Hampshire subject to the following conditions:

1. that the services shall be offered only by approved tariffs, as subsequently amended, and shall be offered only on an interim basis until completion of the Trial Period, at which time the authority granted herein may be revoked or continued on the same or different basis;

2. that Matrix shall file tariffs for new services and changes in approved services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;

3. that Matrix shall notify the Commission of a change in rates of approved services to be charged the public within one day after offering the service at rates other than the rates on file with the Commission;

4. that Matrix is exempt from NH Admin. Rules, Puc 406.03 Accounting Records; Puc 407

Forms Required of All Telephone Utilities; and Puc 409 Uniform System of Accounts for Telecommunications Companies;

5. that Matrix shall maintain its books and records in accordance with Generally Accepted Accounting Principles;

6. that Matrix shall file each calendar year an Annual Report, consisting of: a Balance Sheet and Statement of Operations and an Information Sheet, reflecting to whom the N.H. Utility Assessment should be mailed and a Listing of Corporate Officers and Titles;

7. that Matrix shall be subject and responsible for adhering to all statutes and administrative rules including those related to quality and terms and conditions of service, disconnections, deposits and billing, except those specifically waived herein;

8. that Matrix shall be subject to all reporting requirements contained in RSA 374:13-19 and any filing or reporting requirements imposed by the Commission in this or subsequent orders;

9. that Matrix shall compensate the appropriate Local Exchange Company for all originating and terminating access used by Matrix pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies;

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10. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

11. that during the Trial Period, Matrix shall within 60 days following the end of calendar quarter, report on a confidential basis, except where noted, monthly statistics, for each month the service is offered, the following information:

a. For each intrastate toll service offered:

(1) number of subscribers in NH who have intrastate usage will be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

(2) intrastate minutes of use;

(3) intrastate revenue;

(4) type of access arrangement used;

(5) for services that use different access arrangements (e.g. SDN) the percentage of use relative to each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

(6) whether the service is residential or business or both. Item a.(6) is not confidential.

b. On an aggregate basis, intrastate minutes and access charges actually paid to each LEC;

c. The intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and for special access arrangements;

d. The number of interstate and intrastate special access arrangements stated by channel

capacity;

e. The intrastate conversation minutes of use terminated, reported separately by service, for switched access arrangements, and for special access arrangements;

f. As a percentage of total intrastate conversation minutes of use, the amount of intrastate traffic that was both originated and terminated over switched access;

g. For each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

(1) for non-800 services, originating outbound minutes of use;

(2) for 800 services, terminating inbound minutes of use;

(3) average call duration;

(4) type of access arrangement used. Item g.(4) is not confidential;

h. Percentage Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC); and it is

FURTHER ORDERED, that nothing contained in this Order shall be construed to allow Matrix to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that Matrix file a compliance tariff before beginning operations in accordance with NH Admin. Rules, Puc PART 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective November 4, 1993 unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

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By order of the New Hampshire Public Utilities Commission this fifth day of October, 1993.

Notice of Conditional Approval of Matrix Telecom of New Hampshire, Inc. To Do Business as a Telecommunications Utility in State of New Hampshire

On December 29, 1992, Matrix Telecom of New Hampshire, Inc. (Matrix) filed with the New Hampshire Public Utilities Commission (Commission) a petition to do business as a telecommunications utility in the State of New Hampshire, specifically to provide intrastate long distance telecommunications services. Matrix, a New Hampshire corporation, is affiliated with Matrix Telecom, a Texas corporation.

In Order No. 20,985, the Commission granted Matrix conditional approval to operate as of November 4, 1993 subject to the right of the public and interested parties to comment on Matrix or its operations before the Order becomes final.

For copies of the petition or Commission order granting conditional approval, please contact the Commission's Executive Director and Secretary at (603) 271-2431, or as noted below. Anyone interested in commenting on Matrix's petition to do business in the State should submit written comments no later than November 1, 1993 to:

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission 8 Old

Suncook Road Concord, New Hampshire 03301

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NH.PUC*10/05/93*[75224]*78 NH PUC 563*Bretton Woods Ski Area v. Bretton Woods Telephone Co.

[Go to End of 75224]

Bretton Woods Ski Area v. Bretton Woods Telephone Co.

DC 92-159

Order No. 20,986

78 NH PUC 563

New Hampshire Public Utilities Commission

October 5, 1993

Report and Order Resolving Billing Dispute Between Bretton Woods Ski Area and Bretton Woods Telephone Company.

Appearances: Donovan, Desjardins and Fogg by Paul F. Donovan, Esq. on behalf of Bretton Woods Ski Area Limited Partnership; Sulloway and Hollis by Margaret H. Nelson, Esq. on behalf of Bretton Woods Telephone Company; and Stephen L. Merrill on behalf of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

This matter comes before the Commission on the complaint of the Bretton Woods Ski Area Limited Partnership (Ski Area) relative to certain charges assessed against the Ski Area for telephone service by Bretton Woods Telephone Company (Telephone Company).

On May 7, 1992, the Commission's Consumer Assistance Department received a letter from Herbert Boynton, the managing partner of the Ski Area, relative to certain "new" services the Ski Area was being billed by the Telephone Company. All of these services related to the Ski Area's private branch exchange (PBX).

On July 21, 1992, the Commission Staff (Staff) attempted to arbitrate the dispute over the charges but was unable to resolve the matter to the satisfaction of the Ski Area and the Telephone Company.

On September 15, 1992, the Commission by letter of the Executive Director and Secretary scheduled a hearing on the merits of the dispute for October 6, 1992. At a hearing held on October 6, 1992, the Ski Area requested a continuance to retain counsel. The request was granted and the hearing on the merits of the complaint was held on January 12, 1993.

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Subsequently, the Parties attempted to resolve the complaint between themselves and the commission held its Report and Order in abeyance. The parties have since notified the Commission that they are unable to resolve the matter. Due to delays in obtaining the transcript of the January 12, 1993, hearing, however, this Report and Order was further delayed.

II. *BACKGROUND*

Prior to May of 1988 ownership of both the Ski Area and the Telephone Company was under the umbrella of one entity, Bretton Woods Acquisition Company (BWAC). In May of 1988 the Ski Area and the rest of the resort area known as Bretton Woods and its appurtenant facilities, excluding the Telephone Company, were sold to the Satter Company of Bretton Woods (Satter Company). BWAC retained ownership of the Telephone Company until February of 1992 when it was sold to the Lynch Telephone Corporation.

In August of 1988 when the Ski Area was acquired by Mr. Boynton and certain limited partners from the Satter Company he became general manager of the Ski Area. When he took possession of the ski area in August there was no PBX in the main lodge of the ski area. The PBX was then at another location because it was the usual and customary practice of BWAC to remove the PBX from the ski area lodge at the end of the ski season for use at another location during the summer months (the Lodge or Motor Inn). Mr. Boynton was familiar with this practice because he was involved with the resort when it was under the control of BWAC.

In the fall of 1988, Mr. Boynton first became aware that the PBX, i.e., the console or computer, was not considered part of the sale of the ski area by the Satter Company. Mr. Boynton then sought to purchase a PBX to install in the ski area lodge. He entered into negotiations with a number of parties for the purchase of a PBX. Among those parties was the Telephone Company which conducted negotiations through one of its employees, Oliver Cole.

Mr. Cole testified that he offered the Ski Area three options relative to the PBX sale. Under the first two options the Ski Area would be obligated to pay monthly line charges for all of the lines on the so-called customer side of the PBX ("tie lines"). Under the third option the Ski Area would only be obligated to pay monthly charges for the trunk line(s) from the Telephone Company's central office to the PBX console. Thus, there would be no ongoing charges from the Telephone Company for the use of the "tie lines" as they were considered part of the sale from the Telephone Company to the Ski Area as was reflected in the higher cost of this option relative to the other options offered to the Ski Area.

Although the actual physical lines involved in this dispute which emanate from the PBX to eight different locations on the ski area premises were never discussed as such during the negotiations; testimony by Mr. Cole revealed the different payment options offered the Ski Area reflected the differing treatment of the tie lines. That is, Mr. Cole understood that the different options reflected different treatment of the lines on the ski area premises. The Ski Area purchased the PBX from the Telephone Company for \$5,000 on December 22, 1988, i.e., option three, to avoid any charges other than charges for the trunk(s) from the Telephone Company's central office to the PBX console.

In its February 1992 bill from the Telephone Company, the Ski Area began to receive certain charges for "tie lines" which run behind the PBX console on the customers premises to eight

locations at the ski area. Prior to this bill the Ski Area had never received such charges from the Telephone Company.

Nancy Hubert, then Office Manager of the Telephone Company responsible for billing at the time of the sale, and now Assistant General Manager, testified that she did not bill the Ski Area for the "tie lines" until January of 1992 because she relied on Mr. Cole to correct her billing errors. That is, she relied on Mr. Cole's expertise to provide her with the technical bases that serve as the foundation for different services provided customers on which their bills are based.

She further testified, however, that Mr. Cole was never authorized by herself or Mr. Leonard Mass, then General Manager of the

Page 564

Telephone Company, to sell the Ski Area the "tie lines" in question.

Testimony further revealed that the Telephone Company has not performed any maintenance on the lines in question since the sale of the PBX to the Ski Area.

III. POSITIONS OF THE PARTIES AND STAFF.

A. *Ski Area*

The Ski Area takes the position that it is not obligated to pay the "tie line" charges first assessed to it by the Telephone Company beginning in January of 1992. The Ski Area bases its position on the contention that it purchased the subject lines when it purchased the PBX from the telephone Company in the fall of 1988.

B. *Telephone Company*

The Telephone Company takes the position that the Ski Area is liable for the "tie line" charges which it began to assess in January of 1992. The Telephone Company bases this position on the contention that the Ski Area has never purchased or retained ownership of the subject lines because Mr. Cole did not have the authority to transact such a sale and the disputed lines are, therefore, the property of the Telephone Company for which the Ski Area must pay.

C. *Staff*

Staff takes the position that the Ski Area purchased the subject lines as part of the 1988 transaction and is, therefore, not responsible for the "tie line" charges. Furthermore, Staff contends that the Telephone Company's own tariff issued after the Federal Communication Commission's (FCC) rulings on customer premises wiring leads to the conclusion that the subject lines are the property of the Ski Area.

IV. COMMISSION ANALYSIS

The ultimate issue for resolution by the Commission is the ownership of the tie lines located on the Ski Area's property behind the PBX console and, thus, the propriety of the tie line charges assessed the Ski Area commencing in January of 1992. Subsumed within this issue and determinative of its resolution are the terms and conditions of the sale of the PBX to the Ski Area in 1988, and the Telephone Company's tariff provisions on customer wiring.

We note from the onset of our analysis that the nexus of the contractual dispute is a sale of

goods over \$500. The PBX fits within the definition of "goods" and, therefore, is subject to the Uniform Commercial Code as codified in New Hampshire at RSA chapter 382-A.

As was stated above, the PBX was purchased by the Ski Area in December of 1988 from the Telephone Company. The negotiations for the sale were conducted by Herbert Boynton, General Manager of the Ski Area for the Ski Area and Oliver Cole, then Field Operations Manager of the Telephone Company, for the Telephone Company.

On December 22, 1988, the written contract for the sale was executed by Mr. Cole on behalf of the Telephone Company and J. Pat McNally an authorized agent of the Ski Area on behalf of the Ski Area.

The contract of sale satisfies only the minimum requirements of a written contract set forth in RSA 382-A:2-201. RSA 382-A:2-201 (1) entitled "Statute of Frauds", provides, *inter alia*, that;

"a contract for the sale of goods for the price of \$500 or more is not enforceable by way of action or defence unless there is some writing sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by his authorized agent...."

Although the contract in question does meet the requirements set forth above, and is, therefore, a valid contract of sale, it barely satisfies those requirements. The contract merely consists of an invoice labelled "Work Order No. 252, Bretton Woods Telephone Co." *See*, Exhibit #1, NH-5b. On the line labelled "Order Received" the date 11-30-88 appears, however,

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on the line labelled "Service Completed" the date is 12-22-88¹⁽⁷⁵⁾. Under the label "Service Requested" are the notes "install PBX" and certain "trunks". All "labor" categories are listed as N/A. It is signed by Cole (Oliver Cole) and J. Pat McNally, an employee of the Ski Area. *Id.*

The sparse nature of the contract and its presence on a work order or invoice in conjunction with the fact that the contract contains no merger clause lead us to the conclusion that the writing was not intended as "the final expression of their [the parties] agreement." RSA 382-A:2-202. Thus, the contract can be explained through evidence of additional terms that are not inconsistent with the plain words of the writing, and course of performance and dealing (*parole evidence*). *Id.*

Based on the testimony of Mr. Cole, which explains the terms of the agreement, and the course of performance of the Parties, i.e., the fact that the Telephone Company did not bill the Ski Area for the tie lines in dispute for approximately four years nor did it perform any maintenance on the lines, we conclude that the contract offered the Ski Area by Mr. Cole and accepted by the Ski Area included the sale of the disputed "tie lines".

The Telephone Company, however, takes the position that Mr. Cole did not have the authority to offer the Ski Area such a contract and it is, therefore, not bound by the agreement. We need not reach the issue of Mr. Cole's *express* authority because it is clear he had *apparent* authority to enter into the contract.

The doctrine of "apparent authority" holds that a "principal is liable for the unauthorized acts of his agent, if the principal has ... so conducted his business as to give third parties the right to

believe that the act in question is one he has authorized the agent to do...." *Sinclair v. Town of Bow*, 125 N.H. 388 at 392 (1984).

In the case at hand, it is clear that Mr. Boynton, the third party, had every right to believe that Mr. Cole had the authority to enter into the subject contract. We base this conclusion on the fact that the principal, the Telephone Company, conducted its business in a manner that allowed for that perception. That is, the general manager and his assistant allowed Mr. Cole to conduct all of the face to face negotiations with the Ski Area, they never contacted the Ski Area personally relative to the negotiations and they allowed Mr. Cole to sign the contract.

This analysis is further supported by the course of performance of the Telephone Company after the sale of the PBX through its billing and maintenance practices.

Finally, the Company's own Tariff No. 3, Section 10, Page 2, issued in an attempt to comply with the FCC's rules on the deregulation of customer premises wiring, states in relevant part, that "[t]he network interface device is normally installed outside the customers premises...." Although the Telephone Company did not install a network interface device separating its network from the Ski Area's equipment until after this dispute arose, we believe this general statement indicates the Telephone Company's decision not to own, operate or maintain equipment on customers' premises. This further supports our conclusion that the "tie lines" in dispute are the property of the Ski Area.

We find, therefore, that the Ski Area is, and has been, the owner of the "tie lines" in question since December 22, 1988, and cannot, therefore, be charged by the Telephone company for the use of these lines.

Our order will issue accordingly.

Concurring: October 5, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that The Bretton Woods Ski Area Limited Partnership is not obligated to compensate the Bretton Woods Telephone Company for the use of "tie lines" on its premises because it purchased those lines in December of 1988.

By order of the New Hampshire Public Utilities Commission this fifth day of October, 1993.

FOOTNOTES

¹ Based on this information we conclude the contract was consummated on the date of the execution of the work order, December 22, 1988.

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NH.PUC*10/07/93*[75225]*78 NH PUC 567*Public Service of New Hampshire

[Go to End of 75225]

Re Public Service of New Hampshire

DR 93-162
Order No. 20,987
78 NH PUC 567

New Hampshire Public Utilities Commission

October 7, 1993

Special Contract with Papertech Corporation; Order Granting Protective Treatment.

BY THE COMMISSION:

ORDER

On September 15, 1993, Public Service Company of New Hampshire (PSNH) filed with the New Hampshire Public Utilities Commission (Commission) a request for approval of a special contract between PSNH and Papertech Corporation (Special Contract). Included in the filing were supporting materials to explain the circumstances leading to and the purpose for the contract, as well as technical statements (Supporting Materials); and

WHEREAS, PSNH filed a Motion for Protective Order on the Special Contract and for interim proprietary treatment of the Special Contract and Supporting Materials; and

WHEREAS, in its motion PSNH states that the Special Contract and Supporting Materials contain information concerning Papertech Corporation's circumstances, operating costs, contractual arrangements, electric usage, and alternatives" and other terms justifying departure of tariff rates consistent with NHRSA 378:18, disclosure of which would substantially harm Papertech Corporation in its competitive market; and

WHEREAS, the information identified above is a necessary part of the filing, and important for Commission Staff to review in evaluating the proposed contract; and

WHEREAS, the Commission recognizes the importance of staff having the opportunity to review fully the materials which support a proposed special contract, in order to responsibly carry out its duties; it is hereby

ORDERED, *NISI*, that the Motion for Protective Order is granted to allow Staff review of the Special Contract and Supporting Materials; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Commission, Commission Staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A and Puc 204.07.

By order of the New Hampshire Public Utilities Commission this 7th day of October, 1993.

NH.PUC*10/12/93*[75226]*78 NH PUC 567*EnergyNorth Natural Gas, Inc.

[Go to End of 75226]

Re EnergyNorth Natural Gas, Inc.

DR 93-173
Order No. 20,988
78 NH PUC 567

New Hampshire Public Utilities Commission

October 12, 1993

Cost of Gas Adjustment Proceeding; Order Granting Protective Treatment.

BY THE COMMISSION:

ORDER

On September 29, 1993, EnergyNorth Natural Gas, Inc., (ENGI) filed with the New Hampshire Public Utilities Commission (Commission) a motion for protective treatment and for interim proprietary treatment of identifying information regarding EnergyNorth's potential gas suppliers and terms of gas supply contracts provided in ENGI's Cost of Gas Adjustment filing (collectively, the CGA identifying information and terms), which have become confidential information since the deregulation of the natural gas industry via FERC Order 636. In addition, ENGI's motion included a request for a blanket protective order covering ENGI's monthly reports, gas supply contracts, and PUC audit information relevant to the unregulated gas market (ongoing CGA Reports and PUC audits relevant to the unregulated gas market, respectively); and

WHEREAS, ENGI proposes to address the CGA identifying information and terms situation by submitting a redacted CGA filing and providing unredacted copies to the Commission and Staff subject to the requested protective order; and

WHEREAS, in its motion ENGI states that the CGA identifying information and terms, the ongoing CGA reports and PUC audits relevant to the unregulated gas market are confidential commercial information and trade secrets which ENGI needs to protect in order to maintain its competitive position and to obtain the best price and terms for its ratepayers; and

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WHEREAS, in its motion ENGI states that it does not disclose the identifying information and terms to anyone outside of its corporate affiliates and their representatives; and

WHEREAS, ENGI has specifically identified the pages within its CGA filing for which it seeks protection; and

WHEREAS, ENGI has not specifically identified what portions of its ongoing CGA Reports and PUC audits relevant to the unregulated gas market for which it seeks protection;

WHEREAS, demand and commodity rates negotiated in gas supply contracts are extremely market sensitive and subject to fluctuation based on competitive pressures; and

WHEREAS, the CGA identifying information and terms and the ongoing CGA Reports are a necessary part of ENGI's filing in support of its cost of gas adjustment, and important for Commission Staff to review in evaluating the cost of gas adjustment filing; and

WHEREAS, the Commission recognizes the importance of Staff having the opportunity to review fully the materials which support a cost of gas adjustment filing in order to responsibly carry out its duties; and

WHEREAS, the Commission does not and will not issue blanket protective orders; it is hereby

ORDERED, that the Motion for Protective Order is granted in order to allow Staff full review of the CGA identifying information and terms and the ongoing CGA Reports and PUC audits relevant to the unregulated gas market; and it is

FURTHER ORDERED, that with regard to the CGA identifying information and terms ENGI shall submit a redacted CGA filing and provide unredacted copies to the Commission, Staff and OCA, and it is

FURTHER ORDERED, that with regard to the ongoing CGA Reports ENGI shall submit reports with clearly marked and separated confidential sections which are removable from the body of the reports; and it is

FURTHER ORDERED, that with regard to the PUC audits relevant to the unregulated gas market, ENGI shall clearly mark and separate information relevant to the unregulated gas market so that auditors may carry out a thorough and responsible audit with full knowledge of what material is protected, and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Commission Staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A and Puc 204.07.

By order of the New Hampshire Public Utilities Commission this 12th day of October, 1993.

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NH.PUC*10/12/93*[75227]*78 NH PUC 568*New England Telephone

[Go to End of 75227]

Re New England Telephone

DR 93-159

Order No. 20,989

78 NH PUC 568

New Hampshire Public Utilities Commission

October 12, 1993

Order *Nisi* Approving Customized NETSAVER Plan.

BY THE COMMISSION:

ORDER

On September 1, 1993, New England Telephone and Telegraph Company (NET) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce three new Optional Calling Plans (OCPs) targeted toward the high and medium volume toll customer; and

WHEREAS, the proposed OCPs included Customized NETSAVER Plan, Business Package and Business Package Plus; and WHEREAS, the Business Package and Business Package Plus plans were approved *nisi* by Order No. 20,979 (September 27, 1993); and

WHEREAS, the Commission sought input from interested parties as to whether the Customized NETSAVER Plan which offers customers contracts for service commitments of 24 or 36 months and a minimum monthly usage commitment, based on direct dialed toll (MTS), 800 and 800 VALUFLEX, or combined usage complied with the terms of the Modified Stipulation, Attachment 4, approved by Order No. 20,916 (July 29, 1993) (Modified Stipulation Agreement); and

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WHEREAS, the Commission received joint comments from AT&T, MCI, Sprint and Long Distance North who argued that Customized NETSAVER does not meet the price test established by the Modified Stipulation Agreement; and

WHEREAS, the Commission received separate comments from NET and the Commission Staff who each argued that Customized NETSAVER complied with the terms of the Modified Stipulation Agreement; and

WHEREAS, the Commission finds that when a new service combines and reprices existing services it is appropriate that the average revenue per minute from the new service meets a weighted price test based on the existing price floors; and

WHEREAS, the weighted price floor was based on NET's projected distribution of MTS, 800 and 800 VALUFLEX minutes of use within Customized NETSAVER; and

WHEREAS, the public should be offered an opportunity to respond in support of or in opposition to this petition; it is hereby:

ORDERED *NSI*, that the following tariff pages of New England Telephone are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC - No. 75 Part A

Section 9 -

Section 10 -

and it is

FURTHER ORDERED, that pursuant to Attachment 4 §B.3 of the Modified Stipulation Agreement, NET shall gather and report minutes sold under Customized NETSAVER separately for MTS, 800 and 800 VALUFLEX, and the rate charged for each minute, for each month of the first two quarters that Customized NETSAVER Plan is offered; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, NET shall cause an attested copy of this Order *Nisi* to be published once in a newspaper having statewide circulation, such publication to be no later than October 22, 1993 and to be documented by affidavit filed with this office on or before November 9, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than November 5, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective November 11, 1993, unless the Commission provides otherwise in a supplemental order prior to the effective date; and it is

FURTHER ORDERED, that the above additions to NHPUC No. 75 be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this twelfth day of October, 1993.

=====

NH.PUC*10/12/93*[75228]*78 NH PUC 569*New England Telephone and Telegraph Company

[Go to End of 75228]

Re New England Telephone and Telegraph Company

DR 93-176
Order No. 20,990
78 NH PUC 569

New Hampshire Public Utilities Commission

October 12, 1993

Special Contract with New Hampshire Electric Cooperative; Order Granting Protective Treatment.

BY THE COMMISSION:

ORDER

On September 24, 1993, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission) a request for approval of a special contract for a Digital Centrex System service between NET and New Hampshire Electric

Cooperative (Special Contract). Included in the filing were supporting materials to explain the purpose of the contract, its cost support and billing service details (Supporting Materials); and

WHEREAS, NET filed a Motion for Protective Order on the Special Contract and for interim proprietary treatment of the Special Contract and Supporting Materials; and

WHEREAS, in its motion NET states that the Special Contract and Supporting Materials contain customer specific, competitively sensitive data including "cost analyses, network size, routing and configuration data; information regarding specific service features; and other contract terms such as term, special rates and billing information;" and

Page 569

WHEREAS, the information identified above is a necessary part of the filing, and important for Commission Staff to review in evaluating the proposed contract; and

WHEREAS, the Commission recognizes the importance of staff having the opportunity to review fully the materials which support a proposed special contract, in order to responsibly carry out its duties; it is hereby

ORDERED, that the Motion for Protective Order is granted to allow Staff review of the Special Contract and Supporting Materials; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Commission Staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A and Puc 204.07.

By order of the New Hampshire Public Utilities Commission this 12th day of October, 1993.

=====

NH.PUC*10/12/93*[75229]*78 NH PUC 570*New England Telephone and Telegraph Company

[Go to End of 75229]

Re New England Telephone and Telegraph Company

DR 93-187
Order No. 20,991
78 NH PUC 570

New Hampshire Public Utilities Commission

October 12, 1993

Special Contract with Lockheed Sanders; Order Granting Protective Treatment.

BY THE COMMISSION:

ORDER

On October 1, 1993, New England Telephone and Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission) a request for approval of a special contract for a Digital Centrex System service between NET and Lockheed Sanders Incorporated (Special Contract). Included in the filing were supporting materials to explain the purpose of the contract, its cost support and billing service details (Supporting Materials); and

WHEREAS, NET filed a Motion for Protective Order on the Special Contract and for interim proprietary treatment of the Special Contract and Supporting Materials; and

WHEREAS, in its motion NET states that the Special Contract and Supporting Materials contain customer specific, competitively sensitive data including "cost analyses, network size, routing and configuration data; information regarding specific service features; and other contract terms such as term, special rates and billing information;" and

WHEREAS, the information identified above is a necessary part of the filing, and important for Commission Staff to review in evaluating the proposed contract; and

WHEREAS, the Commission recognizes the importance of staff having the opportunity to review fully the materials which support a proposed special contract, in order to responsibly carry out its duties; it is hereby

ORDERED, that the Motion for Protective Order is granted to allow Staff review of the Special Contract and Supporting Materials; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Commission Staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A and Puc 204.07.

By order of the New Hampshire Public Utilities Commission this 12th day of October, 1993.

=====

NH.PUC*10/13/93*[75230]*78 NH PUC 570*Northern Utilities, Inc.

[Go to End of 75230]

Re Northern Utilities, Inc.

DR 93-169

DR 93-170

Order No. 20,992

78 NH PUC 570

New Hampshire Public Utilities Commission

October 13, 1993

Cost of Gas Adjustment Proceeding; Order Granting Protective Treatment.

BY THE COMMISSION:

ORDER

On September 23, 1993, Northern Utilities, Inc. (Northern) filed with the New Hampshire Public Utilities Commission (Commission) a motion for protective treatment and for interim proprietary treatment of identifying information regarding Northern's potential gas suppliers and terms of gas supply agreements

Page 570

(identifying information and terms) now being negotiated; and

WHEREAS, Northern seeks protection of the following categories of information: (1) names and identifying information for the gas suppliers with which Northern is currently negotiating, (2) demand and commodity rates in contracts now under negotiation, (3) resulting total cost of supply for each contract under negotiation, and (4) draft gas supply contracts (collectively, identifying information and terms); and

WHEREAS, the identifying information and terms are contained in supporting materials and testimony of E.S. McDonough (Supporting Materials); and

WHEREAS, in its motion Northern states that the identifying information and terms are confidential commercial information which Northern needs to protect in order to maintain its competitive position in the ongoing negotiations in order to obtain the best price and terms for its ratepayers; and

WHEREAS, in its motion Northern states that disclosure of the identifying information and terms would be particularly damaging to Northern at this time when it is actively developing a new gas supply portfolio in response to the restructuring of the natural gas industry under FERC Order No. 636, and

WHEREAS, in its motion Northern states that it does not disclose the identifying information and terms to anyone outside of its corporate affiliates and their representatives; and

WHEREAS, demand and commodity rates negotiated in gas supply contracts are extremely market sensitive and subject to fluctuation based on competitive pressures; and

WHEREAS, the identifying information and terms are a necessary part of Northern's filing in support of its cost of gas adjustment for the 1993-1994 Winter Period, and important for Commission Staff to review in evaluating the cost of gas adjustment filing; and

WHEREAS, the Commission recognizes the importance of staff having the opportunity to review fully the materials which support a cost of gas adjustment filing, in order to responsibly carry out its duties; it is hereby

ORDERED, that the Motion for Protective Order is granted to allow Staff review of the identifying information and terms; and it is

FURTHER ORDERED, that this order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Commission Staff or any other party or member of the public, to reconsider this order in light of the standards of RSA 91-A and Puc 204.07.

By order of the New Hampshire Public Utilities Commission this 13th day of October, 1993.

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NH.PUC*10/13/93*[75231]*— NH PUC —*EnergyNorth Natural Gas, Inc.

[Go to End of 75231]

Re EnergyNorth Natural Gas, Inc.

DR 93-168
Order No. 20,993

— NH PUC —

New Hampshire Public Utilities Commission

October 13, 1993

Petition for Approval of Proposed Rate Treatment for Removal and Disposal of Contents of Concord Gasholder Order Approving Procedural Schedule.

[THE FOLLOWING CASE WAS NOT PUBLISHED IN NEW HAMPSHIRE VOLUME 78.]

BY THE COMMISSION:

ORDER

On September 21, 1993, EnergyNorth Natural Gas, Inc. (ENGI) filed with the New Hampshire Public Utilities Commission (Commission) a Petition for Approval of Proposed Rate Treatment for Cost of Removal and Disposal of Contents of Concord Gasholder and Related Matters; and

WHEREAS, by Order of Notice dated September 28, 1993, delivered to the City of Concord and the Commissioner of the Department of Environmental Services and published in a statewide newspaper, a prehearing conference was scheduled for October 8, 1993; and

WHEREAS, ENGI, the Office of Consumer Advocate (OCA) and the Staff have agreed to an expedited procedural schedule, in light of ENGI's representation that it seeks an order of the Commission by approximately November 1, 1993; and

WHEREAS, ENGI, OCA and the Staff have agreed to the following expedited procedural schedule:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Prehearing Conference	Oct 8, 1993, 10 am
Technical Session #1	Oct 13, 1993 1:30 pm
Technical Session #2	Oct 15, 1993 10 am
Testimony (OCA, Staff, intervenors)	Oct 20, 1993 faxed 4:30 pm
Hearing on the merits	Oct 22, 1993, 10 am;

and

WHEREAS, ENGI, OCA and the Staff have agreed to share information on both a formal and informal basis, such that written and oral data requests will be allowed, and response time to

requests will be as fast as ENGI can produce them; and

WHEREAS, ENGI, OCA and the Staff have agreed that all participants will be free to file Memoranda of Law prior to or within days of the hearing on the merits, exact dates to be determined after the close of the hearing and further that prior to the hearing on the merits, ENGI may file additional testimony addressing issues raised in the technical sessions and data requests; and

WHEREAS, ENGI, OCA and the Staff have agreed that they will make efforts to assist any intervenor who should appear in becoming familiar with the filing and discovery materials; it is hereby

ORDERED, that the procedural schedule delineated above appears reasonable and will be approved.

By order of the New Hampshire Public Utilities Commission this thirteenth day of October, 1993.

=====

NH.PUC*10/13/93*[75232]*78 NH PUC 571*New England Telephone Company

[Go to End of 75232]

Re New England Telephone Company

DE 93-166
Order No. 20,994
78 NH PUC 571

New Hampshire Public Utilities Commission
October 13, 1993

Order Approving Reclassification of Certain Exchanges and Localities to Higher Rate Groups, Including Portions Serving Some Municipalities.

BY THE COMMISSION:

ORDER

On September 17, 1993, New England Telephone and Telegraph Company (NET) or the (Company) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to reclassify the Ashland, Barrington, Bartlett, Bedford, Greenville, Jackson, Keene, Laconia, Orford Locality, Raymond, Rumney, Somersworth, Tamworth and Whitefield exchanges and localities that have exceeded their rate group limits for two consecutive years, and to reclassify portions of exchanges and localities serving some municipalities; and

WHEREAS the Commission finds that pursuant to the company's tariff, NHPUC - No. 75, Part A, Page 6, Paragraph 5.1.3, NET has sworn that the Company's records evidence that the

total weighted main telephone exchange lines in the local service area of the respective exchange, locality, and/or municipality have exceeded the upper limit of the respective rate group for two consecutive annual study periods and are eligible for reclassification; and

WHEREAS the estimated increase in revenue for the first year as a result of this reclassification is \$245,400; it is hereby

Page 571

ORDERED, NET is authorized to implement the rate group reclassification submitted in the Company's filing of September 17, 1993; and it is

FURTHER ORDERED, NHPUC PUC Tariff No. 75, Part A - Section 5:

Page 8, Twentieth Revision

Page 22, Thirteenth Revision

Page 23, Fifteenth Revision

Page 24, Twelfth Revision

Page 25, Twelfth Revision

Page 26, Thirteenth Revision

Page 27, Eleventh Revision

is approved; and it is

FURTHER ORDERED, NET will send an individualized notice by first-class mail to each customer directly affected by the rate group reclassification, on or before November 1, 1993, indicating the amount of the rate change for that customer; and it is

FURTHER ORDERED, this Order will be effective as of October 17, 1993.

By order of the New Hampshire Public Utilities Commission this thirteenth day of October, 1993.

=====

NH.PUC*10/13/93*[75233]*78 NH PUC 572*Integrated Water Systems, Inc.

[Go to End of 75233]

Re Integrated Water Systems, Inc.

DR 93-164

Order No. 20,995

78 NH PUC 572

New Hampshire Public Utilities Commission

October 13, 1993

Suspension of Proposed Tariff.

BY THE COMMISSION:

ORDER

WHEREAS, on September 16, 1993, Integrated Water Systems, Inc. (Integrated) filed a revised reorganized tariff governing its existing terms and conditions; and

WHEREAS, Integrated requested the Commission approve the proposed tariff in its entirety; and

WHEREAS, a thorough investigation is necessary prior to issuing a decision; it is hereby

ORDERED, the proposed tariff, (NHPUC No. 4 Integrated Water Systems, Inc.) be and hereby is suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this thirteenth day of October, 1993.

=====

NH.PUC*10/13/93*[75234]*78 NH PUC 572*New England Telephone Company

[Go to End of 75234]

Re New England Telephone Company

DR 93-056

Order No. 20,996

78 NH PUC 572

New Hampshire Public Utilities Commission

October 13, 1993

Order Approving Special Contract with Concord General Mutual Insurance Company.

BY THE COMMISSION:

ORDER

On March 18, 1993, New England Telephone (NET or the Company) petitioned for Commission approval of a special contract with Concord General Mutual Insurance Company (Concord Group) for DIGIPATH Digital Service (DDS II); and

WHEREAS, in the course of normal business operations, Concord Group often must drop an insurance agent who is part of its network and substitute another more productive agent; and

WHEREAS, under NET tariff NHPUC No. 75, NET assesses large termination penalties every time an agent is dropped and replaced by another; and

WHEREAS, this special contract is designed to lessen the severity of the termination liability and the number of situations when it is imposed; and

WHEREAS, churn occurs naturally in the operation of certain types of businesses, and is not unique to Concord Group; and

WHEREAS, Staff has reviewed the filing, including cost support and data responses; and

WHEREAS, upon review of the petition and the Staff recommendation, the Commission finds the proposed special contract to be in the public interest; it is therefore

ORDERED *NISI*, that the New England Telephone's Special Contract 93-2 with Concord Group is approved; and it is

FURTHER ORDERED, that within 90 days of the signing of this Order, NET file revised tariff pages which address the instances in which termination penalties should be assessed for DDS II service; and it is

Page 572

FURTHER ORDERED, that pursuant to N.H. Admin Rules PUC 203.01, the Company cause an attested copy of this Order *Nisi* to be published once in a newspaper having statewide circulation, such publication to be no later than October 25, 1993 and it is to be documented by affidavit filed with this office on or before November 9, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than November 9, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective November 12, 1993, unless the Commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirteenth day of October, 1993.

=====

NH.PUC*10/13/93*[75235]*78 NH PUC 573*Investigation into New England Telephone's Long Distance Dialing Plan for New Hampshire (INPA)

[Go to End of 75235]

Re Investigation into New England Telephone's Long Distance Dialing Plan for New Hampshire (INPA)

DE 93-003

Order No. 20,997

78 NH PUC 573

New Hampshire Public Utilities Commission

October 13, 1993

Order Establishing Procedural Schedule for Discovery Relative to Implementation of the Blocking of IntraLATA Toll Calls.

BY THE COMMISSION:

ORDER

New England Telephone and Telegraph Company (NET) has moved that the Public Utilities Commission clarify that portion of its Order No. 29,938 requiring investigation of the amount and allocation of the costs of blocking either dialing pattern and to submit a report to the Commission on these issues, and

WHEREAS, by Order No. 20,938, issued August 20, 1993, the Commission directed NET and the Independent Telephone Companies (including: Granite State Telephone, Inc., Merrimack County Telephone, Dunbarton Telephone Company, Inc., Wilton Telephone Company, Inc., and Bretton Woods Telephone Company, Contel of New Hampshire d/b/a GTE NH and GTE Maine, Chichester Telephone Company, Kearsarge Telephone Company, Meriden Telephone Company and Union Telephone Company) to make available, as part of the change in dialing patterns which must be implemented by January 1, 1995, a blocking option permitting customers to restrict individual telephone lines to either the 7 digit or the 1+ 10 digit dialing pattern; and

WHEREAS, by the same order the Commission ordered NET and the ICOs to submit to the Commission Staff, not later than January 10, 1994, cost data regarding the blocking option and the manner in which they propose to allocate those costs; and

WHEREAS, by the same order the Commission stated that final approval of the dialing change contemplated would issue "when the above ordered requirements have been reviewed and found satisfactory by the Commission;" and

WHEREAS, on September 14, 1993 the Commission issued a clarifying order, Order No. 20,966, stating that for the purposes of appeal, Order No. 20,938 is an interim order and that a final order, from which any party or person directly affected may appeal pursuant to RSA 541:3, shall be issued upon the Commission's review and approval of the further requirements imposed by Order No. 20,938; and

WHEREAS, on September 1, 1993 NET filed a request for clarification regarding 1+10 blocking in which NET noted 1+10 blocking would require "twice as much software translation work" and would "exhaust twice as much switching memory capacity with additional benefit"; and

WHEREAS, the Commission recognizes the need for greater understanding of the technical issues involved in 1+10 blocking, including switching memory and software translation; and

WHEREAS, the Staff has indicated that further, detailed information regarding blocking should be evaluated before determining whether NET should be relieved of its requirement to prepare and report on cost data, to wit,

the definitional parameters of each blocking option, the technical implementations of each blocking option, and the impact of blocking options on calls to emergency service providers prior to the implementation of the statewide E911 system; and WHEREAS, the public good will be served by establishing, in a timely and orderly manner, a complete record on the specific technological operation of the blocking capabilities and the capabilities of the ICOs to implement them, being mindful of the January 10, 1994 deadline for cost data reports; and

WHEREAS, the Commission reaffirms its finding that blocking is an appropriate and useful option for New Hampshire telephone customers in dealing with the dialing pattern change; it is hereby

ORDERED, that the Commission Staff shall prepare and NET and the ICOs shall respond to data requests of the Commission Staff regarding the definitional parameters, the specific technological operations and relevant implementation data of the blocking services possible; and it is

FURTHER ORDERED, that neither the data requests nor responses shall address the appropriateness of blocking; and it is

FURTHER ORDERED, that the procedural schedule for data requests and responses shall be as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

First Set of Data Requests due 10/18/93
First Set of Data Responses due 10/25/93
Second Set of Data Requests due 11/01/93
Second Set of Data Responses due 11/08/93;

and it is

FURTHER ORDERED, that NET's motion for clarification is denied without prejudice and with leave to file again after November 11, 1993.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of October, 1993.

=====

NH.PUC*10/18/93*[75236]*78 NH PUC 574*Public Service Company of New Hampshire

[Go to End of 75236]

Re Public Service Company of New Hampshire

DR 93-023
Order No. 20,998
78 NH PUC 574

New Hampshire Public Utilities Commission

October 18, 1993

Fuel and Purchased Power Adjustment Clause; Report and Order Denying OCA's Motion for Rehearing.

Appearances: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Robert P. Knickerbocker, Jr., Esq. (*Pro Hac Vice*) and Gerald Garfield, Esq. (*Pro Hac Vice*) of Day, Berry, and Howard for Northeast Utilities Company; Michael W. Holmes, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; Susan W. Chamberlin, Esq. on behalf of the Commission Staff.

BY THE COMMISSION:

I. PROCEDURAL HISTORY

On February 5, 1993, Public Service Company of New Hampshire (PSNH or company) filed a petition with the New Hampshire Public Utilities Commission (Commission) to open a proceeding on its Fuel and Purchased Power Adjustment Clause for effect June 1, 1993 through November 30, 1993 (FPPAC). On February 11, 1993, the Commission issued an Order of Notice scheduling a prehearing conference for March 5, 1993. The Commission rescheduled the prehearing conference for March 11, 1993 due to bad weather.

On March 22, 1993, PSNH filed testimony and supporting exhibits requesting the Commission establish a rate of \$0.00335 per kilowatt hour (KWH) for this period's FPPAC. This request was subsequently amended on May 7, 1993 to \$0.00122 per KWH and further amended on May 17, 1993 to \$0.00124 per KWH. No motions to intervene were filed.

On April 12, 1993, the Commission issued Report and Order No. 20,810 adopting a procedural schedule and granting Mr. Robert P. Knickerbocker and Mr. Gerald Garfield leave to appear *pro hac vice*.

On May 7, 1993 Staff and the OCA submitted testimony. On May 11 through 13, the Commission held a hearing on the merits. Fol-

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lowing the final hearing, Staff and the parties each filed a list of issues and closing briefs.

On May 28, 1993 the Commission issued Order No. 20,858 which disallowed a total of \$395,560 for management imprudence and set the FPPAC rate at \$0.00110 per KWH. The Commission also ordered PSNH to maintain the confidentiality of self-critical documents to ensure full disclosure of events leading to plant shutdowns. The Commission confirmed its decision with Report and Order No. 20,929 (August 16, 1993).

On September 7, 1993 the OCA filed a Motion for Rehearing. Staff filed an Objection on September 9, 1993. PSNH filed its Objection on September 10, 1993.

II. POSITION OF STAFF AND THE PARTIES

A. The Office of the Consumer Advocate (OCA)

The OCA requested the Commission reconsider its ruling denying the OCA access to certain

incident evaluation reports on the operation of the Seabrook Nuclear Power Station. The OCA argues that PSNH failed to meet its burden in proving the confidentiality of the documents. The documents are not confidential pursuant to RSA 91-A:5 nor is there a privilege under New Hampshire law which exempts PSNH from disclosing the documents to the OCA. In the OCA's view, the Commission does not have the statutory authority to treat as confidential information necessary to protect the ratepayers from incurring imprudent costs.

B. PSNH

In its objection PSNH argued that the Commission reached proper conclusions of fact and law in its initial decision and therefore rehearing is unnecessary. The OCA's dispute is one concerning discovery and therefore should have been raised in the discovery phase of the proceeding. To raise the issue now is untimely and unduly prejudicial. The Commission found previously that the need of the OCA for self-critical documents is outweighed by the "chilling effect" disclosure would have on the candor with which the documents are prepared. In addition, North Atlantic Energy Service Company (NAESCO) provides Outage and Power Reduction Reports (OPRRs), reviewed by Staff for accuracy, with sufficient detail to provide the information sought by the OCA. PSNH believes disclosure of the original documents could have serious ramifications to nuclear safety at Seabrook.

C. Staff

Staff argues that the OCA did not allege any substantive arguments in its Motion for Rehearing which were not or could not have been raised during the initial hearing of this case. The Commission followed precedent in balancing the relevancy of the requested information, the effort needed to gather it, the availability of the information from other sources and any other relevant criteria in making its decision. In Staff's view, the Commission properly considered the negative impact on safety which could result from disclosing self critical documents when it determined that the OCA should not have access to these documents.

III. COMMISSION ANALYSIS

The Commission found in its initial ruling that "... a limited dissemination of [self-critical documents] is necessary to ensure full disclosure of events leading to plant shutdowns and to further ensure the accurate reflection of critical data in OPRRs..." Report and Order No. 20,929 (August 16, 1993), at 15 - 16. *See* Order No. 20,858, (May 28, 1993), at 3. Nothing in the OCA's Motion for Rehearing persuades us that we should revisit that finding.

We thoroughly explored the standards for discovery in administrative proceedings in *Re Public Service Company of New Hampshire*, 72 NH PUC 502 (1987). The Commission must balance "... the necessary effort by PSNH, the relevance of the material, the potential of the requesting party to undertake the effort of preparing the requested information, and any other relevant criteria..." *Id.* at 504. In *Re Public Service Company of New Hampshire*, 76

Page 575

NH PUC 559, (1991) we applied those standards to the same records which are being requested in the present case. We found that PSNH's provision of the original reports to Staff, and OPRRs to other interested parties, strikes the appropriate balance between preserving

NAESCO's ability to thoroughly document any plant outages and the public's need to be informed about potential plant operating problems. *Id.* at 561 - 562.

Contrary to the OCA's assertions, our conclusions were based on proper findings of fact and law. We need not repeatedly investigate past findings if no new grounds for such an investigation are raised. We find nothing in the statutes which authorizes OCA to receive access to the information which they have requested. The OCA's access to the OPRR's, which Staff has reviewed for accuracy, enables the OCA to fulfill its statutory duty to protect residential ratepayers from imprudent costs without the deleterious effect to public safety that could result from complete disclosure of the original documents. Therefore the OCA's Motion for Rehearing is denied.

Our order will issue accordingly.

Concurring: October 18, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that the OCA's Motion for Rehearing is denied.

By order of the New Hampshire Public Utilities Commission this eighteenth day of October, 1993.

=====

NH.PUC*10/18/93*[75237]*78 NH PUC 576*Public Service Company of New Hampshire

[Go to End of 75237]

1.Ax

Re Public Service Company of New Hampshire

Additional respondent: Vermont Electric Generation and Transmission Cooperative, Inc.

DR 93-092
Order No. 20,999
78 NH PUC 576

New Hampshire Public Utilities Commission

October 18, 1993

Petition for Approval of Transfer of Seabrook Interest; Report and Order Denying PSNH's Request for Protective Treatment of Response to Data Request.

Appearances: Gerald M. Eaton, Esq. on behalf of Public Service Company of New Hampshire; Richard A. Samuels, Esq. on behalf of Vermont Electric Generation and Transmission Cooperative, Inc.; Harold T. Judd, Esq. on behalf of the State of New Hampshire; Michael W.

Holmes, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; Amy L. Ignatius, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On May 12, 1993, Public Service Company of New Hampshire (PSNH), Northeast Utilities Service Company, North Atlantic Energy Corporation and the State of New Hampshire (State) petitioned the New Hampshire Public Utilities Commission (Commission) for approval of a Memorandum of Understanding which addressed changes in the Nuclear Property Tax, accounting treatments resulting from adoption of SFAS 106 and 109, PSNH's settlement with the Vermont Electric Generation and Transmission Cooperative, Inc. (VEG&T), the impact of special discount rates previously approved for James River/Wausau Paper, the treatment of nuclear decommissioning costs and the effect of unintended overlap of

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recovery periods relating to the acquisition premium and the deferral return recovery period.

Docket No. DE 93-114, in which VEG&T petitioned the Commission for approval of transfer of its Seabrook interest, was consolidated with DR 93-092.

In the course of discovery in the docket, the Commission Staff (Staff) filed data request No. 8 which requested from PSNH financial forecasts and projections of average rate levels for the period of 1998 through 2002. On August 12, 1993, PSNH submitted the data response with a request for protective treatment, to which the State and the Staff objected. The information has been granted interim protective treatment pending full consideration of the merits of the request and objections. This report and order will address PSNH's request for protective treatment.

II. POSITIONS OF THE PARTIES AND STAFF

A. PSNH

PSNH argues the information contained in the response to Staff Data Request No. 8 must be protected for 4 reasons: 1) PSNH now faces competitive threats from co-generation, self-generation and other utility providers and, therefore, pursuant to RSA 91-A:5, commercially sensitive material of this nature should be protected; 2) disclosure would have an insubstantial benefit to the public because a 10 year forecast is not routinely done by PSNH and therefore it will not have been as rigorously developed as shorter term forecasts and further, long term forecasts are by nature less reliable in that important assumptions and actual circumstances may change; 3) disclosure would harm PSNH in its competitive position against customers who are considering self-generation and co-generation, retail wheeling and independent power producers and if potential competitors need not disclose this information, PSNH should not be compelled to do so; and 4) the harm to PSNH outweighs the benefits to the public of disclosure, due to the unreliability of a long term forecast, which will nevertheless be used by PSNH's competitors.

In a supplemental filing in response to the objections of the State and the Staff, PSNH reiterated its assertion that it presently faces competitive challenge, noting special contracts

granted to PSNH. Further, competitors and customers are now making investment decisions that will span the period following the end of the fixed rate period, thereby putting PSNH at a disadvantage if rate projections were disclosed.

B. VEG&T

VEG&T concurred in PSNH's request for protective treatment without further elaboration.

C. Office of Consumer Advocate

The Office of Consumer Advocate (OCA) took no position on PSNH's request for protective treatment.

D. State of New Hampshire

The State objected to PSNH's request for protective treatment, arguing that PSNH is not facing a competitive marketplace at this time. Most of the forms of "competition" PSNH identifies (self-generation and co-generation) have been present in the state for a number of years and have not been the basis for restriction of public disclosure. The possibility of retail wheeling is at best a potential for competition and should not justify confidential treatment. The State noted that similar forecasts were provided three years prior as part of PSNH's emergence from bankruptcy. The State suggested the Commission explore the issues raised by PSNH in a generic docket on the possibilities and ramifications of competition on electric utilities. The State also opposed any arrangement by which the information could be reviewed by the Staff but not by the Commissioners themselves.

E. Commission Staff

Staff objected to PSNH's request for protective treatment, arguing that RSA 91-A does not exempt long term projections of rates

Page 577

and other financial forecasts as PSNH asserts, that there is no real competitive challenge now facing PSNH, that the lack of reliability of a long term forecast should not be the basis on which to prohibit disclosure, that those providers who may court PSNH's customers into considering self-generation or co-generation and the customers themselves will certainly recognize that forecasts are only so good as the underlying assumptions, and that PSNH provided this same type of long term forecast as part of its merger transaction with Northeast Utilities, without protective treatment and should not now, if it believes those forecasts to have changed, be allowed to keep such information from its ratepayers and the general public.

III. COMMISSION ANALYSIS

Upon review of the filings of PSNH, the State and the Staff, we find that PSNH has not met its burden to demonstrate why the response to Staff Data Request No. 8 regarding financial forecasts and projections of average rate levels for the period of 1998 through 2002 should be exempt from disclosure under RSA 91-A. Accordingly, the interim protective treatment granted to PSNH at our August 16, 1993 Commission meeting is now lifted.

The Right to Know Law, RSA 91-A, requires that we consider all documents as public records, subject to disclosure, unless a showing is made that the information meets one of the

exemptions from disclosure contained in RSA 91-A:5. PSNH has not made a persuasive case that the financial forecasts and projections should be exempted from disclosure.

PSNH's concern that ten year forecasts are unreliable because of the likelihood of change in assumptions and circumstances and the possibility of intervening Commission action is certainly important to one evaluating any forecast but is not relevant to an analysis of the Right to Know Law. Nowhere are we asked to evaluate if information is reliable or whether it could be misunderstood or improperly used by a competitor or a customer. Instead, we must ask whether the information contains "confidential, commercial or financial information" pursuant to RSA 91- A:5, IV.

Were this a matter of financial data supporting a special contract negotiated this month, in the midst of other competitive offers, we might grant protective treatment, as we have done in numerous cases involving what is now an increasingly competitive market for telecommunications special contracts. Similarly, if this were a case of disclosure of a fuel supply contract, we might grant protective treatment, as we have done in recent cost of gas adjustment proceedings which, in the wake of federal and state regulatory change, now involve significant competition in gas supply and gas transportation contracts.

By contrast, the data PSNH seeks to protect is not a current contract for which it faces immediate competitive threat. It is a long term projection of rates over a ten- year period. We do not believe that the long term projections of a regulated utility are the kind of information the legislature intended to protect when it created the exemption for confidential, commercial or financial information.

We acknowledge that some of PSNH's customers have explored or may in the future explore the possibility of self- generation or co-generation, and we have worked with PSNH and other utilities to consider responses to that possibility of loss of customer load in a fair and just manner. In DR 91-172 we approved a program for economic development rates under certain circumstances and recently approved a discounted rate tariff for sawmills which PSNH asserted were particularly likely customers to go to self- generation. PSNH is correct in noting we have approved some special contracts with discounted rates for business retention or expansion. This does not mean, however, that PSNH can be characterized as operating in a competitive market. It remains a regulated monopoly provider of electric service to over 400,000 customers throughout the state. It enjoys the benefits of a series of automatic rate increases under the Rate Agreement. It is clearly not operating under the same parameters as its potential competitors (many of which are its customers who are not in the business of providing utility service at all). We find its complaint that it should not have to disclose information which its "competitors" don't have

Page 578

to disclose unacceptable. Every regulated utility authorized to do business in this state knows the two-edged sword of regulation: a certain stability and reliability of recovery for prudent investments and costs of sound management balanced against the need to obtain regulatory approval for many operations and the obligation to disclose to the regulators and the public certain business information.

We are troubled that PSNH appears to seek protection of data which apparently updates or

revises information already in the public record as part of our proceedings in DR 89-244, the approval of PSNH's merger with Northeast Utilities as it sought to emerge from bankruptcy. Some of that information was also included in the public record in DR 92-009, New Hampshire Electric Cooperative, Inc.'s rate and debt reorganization proceeding as it too sought to emerge from bankruptcy.

Of course, we have not yet seen PSNH's response to the Staff's data request and therefore do not know if the projections are higher, lower or unchanged from the projections contained in DR 89-244. We must assume, however, that they are higher, given PSNH's unwillingness to have the new projections made public. If publicly disclosed projections have changed, it is all the more compelling that we make the revised projections available to the public. To do otherwise would place the Commission in the untenable position of restricting public access to data which PSNH suggests is no longer reliable, while the Commissioners and/or its Staff ponders PSNH's most current projections. In our view, this is not the proper balancing of the benefits of disclosure and non-disclosure our Supreme Court intended in *Gregg v. Chambers*, 135 N.H. 478 (1992).

Our order will issue accordingly.

Concurring: October 18, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the request of Public Service Company of New Hampshire to protect from public disclosure its response to Staff Data Request No. 8 is hereby denied.

By order of the New Hampshire Public Utilities Commission this eighteenth day of October, 1993.

=====

NH.PUC*10/18/93*[75238]*78 NH PUC 579*Connecticut Valley Electric Company

[Go to End of 75238]

Re Connecticut Valley Electric Company

DR 93-196

Order No. 21,000

78 NH PUC 579

New Hampshire Public Utilities Commission

October 18, 1993

Qualifying Facility Certification. Order Directing Connecticut Valley Electric Company to Pursue the Issue of the Certification of Wheelabrator-Claremont Company at the Federal Energy Regulatory Commission to Convert Metering of Small Power Producers to Net Sales Arrangements.

 BY THE COMMISSION:

ORDER

WHEREAS, on October 14, 1993, Connecticut Valley Electric Company (CVEC) filed a letter with the Public Utilities Commission (Commission) which detailed its concerns regarding the continuing certification as a Qualifying Facility (QF) of the Wheelabrator- Claremont Company, L.P. (Claremont) due to the nature of its sales arrangements, and the effect of lack of QF status on the validity of the purchase power contract between CVEC and Claremont; and

WHEREAS, certification and de-certification of QFs is a determination that lies wholly within the jurisdiction of the Federal Energy Regulatory Commission (FERC) and the New Hampshire Commission would be unable to act regarding the effect of the loss of QF status on the CVEC/Claremont contract until the FERC has made its determination; and

WHEREAS, the concern expressed by CVEC relates to the sale of electricity by Claremont on a metered basis that is gross rather than net sales and that such a sales arrangement has not been permitted by the FERC since *Turners Falls Ltd. Partnership*, 55 FERC ¶ 61,487 (1991); it is hereby

ORDERED, *NISI*, that CVEC file its concern regarding the certification of Claremont's

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QF status with the FERC within thirty (30) days; it is

FURTHER ORDERED, that Claremont is hereby put on notice that the effect of any determination by the FERC will be retroactive to the effective date of this order; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules PUC 203.01, CVEC cause an attested copy of this Order *Nisi* to be published once in a newspaper having statewide circulation, such publication to be no later than October 28, 1993 and it is to be documented by affidavit filed with this office on or before November 12, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than November 12, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective November 17, 1993, unless the Commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this eighteenth day of October, 1993.

=====
 NH.PUC*10/19/93*[75239]*78 NH PUC 580*New England Telephone

[Go to End of 75239]

Re New England Telephone

DR 93-163
Order No. 21,001
78 NH PUC 580

New Hampshire Public Utilities Commission
October 19, 1993

Order Authorizing Certain ONA Services.

BY THE COMMISSION:

ORDER

On September 15, 1993, New England Telephone (NET) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce language in its general regulations offering certain ONA services on an individual case basis and to file tariff rates for the services at a later date; and

WHEREAS, on August 17, 1992, NET filed with the FCC an explanation of why it had not met Open Network Architecture (ONA) state tariff requirements for certain services and petitioned for structural relief, pursuant to the BOC Safeguards Order; and

WHEREAS, in its petition to the FCC, NET claimed there was a general lack of demand for these services; and

WHEREAS, on December 16, 1992, the FCC granted the Company's petition for structural relief and a limited waiver of the state tariffing requirement of the BOC Safeguard Order; and

WHEREAS, in its petition to the Commission, NET seeks permission to file general tariffed rates at a date on which NET concludes that sufficient demand exists to warrant the filing; and

WHEREAS, the Commission Staff reviewed NET's petition and recommended that demand for an ONA service should be considered sufficient to warrant the filing of a general tariffed rate for that service when one customer requests the service; and

WHEREAS, after reviewing the petition and the Staff recommendation, the Commission finds that the proposed tariff revision to be in the public good; it is therefore

ORDERED, that the following tariff pages of New England Telephone are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC - No. 75 Part A - Section -
Original Page 2.1

First Revision of Page 2

and it is

FURTHER ORDERED, that the above tariff page shall be effective as filed; and it is

FURTHER ORDERED, that upon customer request for an ONA service, NET shall file revised tariff pages to include general tariffed rates for that service; and

FURTHER ORDERED, that the above addition to NHPUC No. 75 be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this nineteenth day of October, 1993.

=====

NH.PUC*10/19/93*[75240]*78 NH PUC 581*Sprint Communications Company of New Hampshire, Inc.

[Go to End of 75240]

Re Sprint Communications Company of New Hampshire, Inc.

DE 93-172

Order No. 21,002

78 NH PUC 581

New Hampshire Public Utilities Commission

October 19, 1993

Order *Nisi* Approving Addition of The Affinity Member Program and Amendments to the Existing Tariff.

BY THE COMMISSION:

ORDER

On September 22, 1993, Sprint Communications Company of New Hampshire, Inc. (Sprint), filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce the Affinity Member Program; and

WHEREAS, the Affinity Member Program provides a 5 to 15 percent discount for eligible program members based on, among other specifications, the type of end-user subscribing to the service (i.e. residential or business); and

WHEREAS, the filing also proposes certain minor text changes and revisions to the definition of all carrier specified "Holidays" for Sprint services; and

WHEREAS, Sprint has restructured usage rates for Hospitality Connection-Switched and VPN which increase the existing rates; and

WHEREAS, Sprint requested the filing become effective on November 1, 1993; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in

opposition to said petition; it is hereby

ORDERED *NISI*, that the following tariff pages of NHPUC No. 3 - are approved:

- 14th Revised Page 1
- 1st Revised Page 9
- 4th Revised Page 48
- 1st Revised Page 51
- 1st Revised Page 54
- 1st Revised Page 55
- 1st Revised Page 56
- 1st Revised Page 57
- 2nd Revised Page 62.1;

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, Sprint cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than October 29, 1993 and is to be documented by affidavit filed with this office on or before November 15, 1993; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 15, 1993; and it is

FURTHER ORDERED, that Sprint file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective November 18, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this nineteenth day of October, 1993.

=====

NH.PUC*10/27/93*[75241]*78 NH PUC 582*Public Service Company of New Hampshire

[Go to End of 75241]

Re Public Service Company of New Hampshire

DR 93-200
Order No. 21,003
78 NH PUC 582

New Hampshire Public Utilities Commission

October 27, 1993

Qualifying Facility Certification. Order Directing Public Service Company of New Hampshire to Convert Metering of Small Power Producers to Net Sales Arrangements.

BY THE COMMISSION:

ORDER

In *Turners Falls Ltd. Partnership*, 55 FERC ¶ 61,487 (1991), the Federal Energy Regulatory Commission determined that the sale of electricity by Qualifying Facilities (QFs) must be on a metered basis that is net rather than the previously permitted arrangement of gross purchase and sale if such facilities are to continue to qualify under the Public Utilities Regulatory Policy Act of 1978; and

WHEREAS, this determination was codified in statute by the Energy Policy Act of 1992; and

WHEREAS, in answer to data request Staff-015 in Docket No. 93-023, Public Service Company of New Hampshire (PSNH) identified 59 projects that sell gross rather than net generation to PSNH; and

WHEREAS, loss of QF status affects the validity of the purchase power contracts and rate orders between PSNH and small power producers; it is hereby

ORDERED, that within ten (10) days, PSNH inform the 59 projects from which it purchases generation on a gross sales basis that such a sales arrangement is no longer possible under rates approved by the Commission pursuant to the Public Utilities Regulatory Policies Act, Section 210, and within ninety (90) days, arrange to convert all metering and/or billing to net purchase and sale and report back to the Commission on the conversion or plans for conversion, including a schedule for completion at the end of the 90-day period; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules PUC 203.01, PSNH cause an attested copy of this order to be published once in a newspaper having statewide circulation, such publication to be no later than and it is to be documented by affidavit filed with this office on or before November 26, 1993 ; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than November 29, 1993.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of October, 1993.

=====

NH.PUC*10/27/93*[75242]*78 NH PUC 582*White Mountain Hydroelectric Corporation

[Go to End of 75242]

Re White Mountain Hydroelectric Corporation

DE 92-243

Order No. 21,004

78 NH PUC 582

New Hampshire Public Utilities Commission

October 27, 1993

Report and Order Approving Settlement Agreement.

Appearances: Thomas B. Getz, Esq. for Public Service Company of New Hampshire; Brennan, Caron, Lenehan & Iacopino by Michael J. Iacopino, Esq. for White Mountain Hydroelectric Corporation and E. Barclay Jackson, Esq. for the Staff of New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On December 29, 1992, White Mountain Hydroelectric Corporation (WMHC) filed a Petition for Determination and Adjudication (Petition) with the New Hampshire Public Utilities Commission (Commission) asking that Public Service Company of New Hampshire (PSNH) be required to accept at least 1 Megawatt of electrical energy from WMHC's Lisbon hydroelectric station project in accordance with the rates set by the Commission in DR 86-085, White Mountain Hydroelectric Corporation, Order No. 18,228, dated April 22, 1986. By Order of Notice issued on January 13,

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1993, the Commission accepted WMHC's Petition and ordered a hearing on the merits be held before the Commission on March 2, 1993 with pre-filed testimony and exhibits due on or before February 19, 1993. A Revised Order of Notice issued on January 18, 1993 ordered a hearing on the merits on March 15, 1993 with pre-filed testimony and exhibits due on or before March 5, 1993.

On January 29, 1993, PSNH filed a Motion for Summary Judgment arguing that there is no genuine issue of material fact. WMHC filed an Answer to the Motion for Summary Judgment with Conditional Cross-Motion for Summary Judgment.

On February 16, 1993, the Commission denied the parties' motions for summary judgment.

On March 5, 1993, the Commission granted the parties' joint request that the procedural schedule be temporarily suspended to permit the parties to engage in extensive settlement negotiations.

At the White Mountain's request, the parties met with Commission Staff on April 19, 1993, to discuss terms of settlement. A Settlement Agreement, based upon conclusions drawn from the

April 19th meeting, was submitted to the Commission on August 18, 1993.

II. POSITIONS OF THE PARTIES

A. *PSNH*

PSNH agreed to four facts raised by WMHC in its Petition: (1) that PSNH did not have the capability to accept the full output of WMHC at the time the Commission approved WMHC's Interconnection Agreement and long term rates for the years 1987 through 2006 nor did PSNH have the capability on June 1, 1986 at the time WMHC's facility was ready and able to deliver its full rated capacity; (2) that at the time of the interconnection study PSNH estimated that the cost to upgrade the system to accept WMHC's full output would be about \$125,000; (3) that PSNH and WMHC executed an interconnection agreement for less than full output; and (4) that PSNH has not upgraded its system to accept the full capacity. PSNH argued that RSA 362-A:3 does not require PSNH to purchase WMHC's full capacity under its original Rate Order. PSNH also argued that by the Commission's ruling in Docket No. DR 89-148, Order No. 20,189, a small power producer is limited to the output achieved and on line within four years of its Rate Filing. Therefore, PSNH argued, WMHC could not now, six years after its Rate Filing, obtain application of the Rate Order to the full 1 megawatt capability.

B. *WMHC*

WMHC characterized the interconnect agreement as temporary. WMHC disputed conclusions of law drawn by PSNH with regard to PSNH's obligation to raise interconnection problems in its comments and exceptions to the original Petition for a Long Term Rate Order, and with regard to PSNH's reliance on the Commission's ruling in Docket No. issued July 23, 1991. The Long Term Rate Order established WMHC's right to produce and sell a certain amount of power. WMHC argued that PSNH should be estopped from objecting to its Petition because PSNH failed to object at the time the Commission accepted the rate order.

WMHC argued that it intended and was granted a rate order for delivery of at least 1 megawatt of energy on the existing PSNH system and that PSNH failed to object to the Rate Order in 1986. WMHC concluded, therefore, that PSNH was now estopped from objecting to the Rate Order.

III. SETTLEMENT AGREEMENT

The parties agreed, and the Commission Staff concurred, to settle their dispute pursuant to the terms of a Settlement Agreement dated August 18, 1993. (Attached hereto as Appendix A and made a part hereof.) In general outline, the Agreement results in payments by WMHC to PSNH for, and construction by PSNH of, the conversion of the existing 4.16kV Lisbon 20H1 circuit to 19.9/34.5kV execution of a revised Interconnection Agreement; and PSNH's purchase of the full output of electricity from

WMHC at rates set forth in Order No. 18,228 for electricity up to a maximum of 2.471 million actual kilowatt hours per billing year (the maximum amount previously generated by WMHC) and at the then existing short term rates for electricity generated in excess of 2.471 actual kilowatt hours per billing year.

IV. COMMISSION ANALYSIS

In general, the Commission does not favor investments which, when using today's power market figures result in a less than favorable cost benefit analysis. For instance, in *Re Minnewawa Hydro Company, Inc.*, 74 NH PUC 368 at 371 (1989), the Commission was unwilling to waive the four year on-line requirement of the long term rate order where the developer testified that even on an incremental basis the project was not economically viable in the current power market. See also, *New England Alternate Fuels, Inc.-Swanzey (NEAF)*, 71 NH PUC 423, 426, PUR4th (1986). Nonetheless, having reviewed the file and the Stipulation in this case, we are persuaded that this case is distinguished from prior cases and that the terms of the Stipulation result in a just and reasonable resolution which is in the public interest.

In the Long Term Rate Order WMHC was granted authority to deliver a certain capacity of power. WMHC was on line and commercially operating well within the four year requirement. Thus, WMHC does not run afoul of *Minnewawa*.

Because PSNH was incapable of accepting the full ration of power authorized in the Long Term Rate Order, PSNH and WMHC executed an interconnection agreement for less than the full ration. Over the next years WMHC delivered and PSNH accepted an amount of power up to 2.471 million actual kilowatt hours per billing year at the long term rate. With updated interconnection equipment WMHC will be capable of delivering more power. Permitting WMHC to deliver more power at the long term rate would be unreasonable. Permitting PSNH to accept less power at the long term rate than it has accepted in the past would likewise be unreasonable.

In this case, as a result of the Settlement Agreement PSNH will upgrade its interconnection with WMHC, at WMHC's expense, at a date earlier than PSNH might have intended. However, PSNH intended at some point to upgrade the interconnection with WMHC. As a result of the upgrade WMHC will be able to deliver more power, thereby fulfilling the underlying rationale of the regulatory structure established by Title II of the Public Utility Regulatory Policies Act of 1978, the Federal Energy Regulatory Commission regulations promulgated pursuant thereto and RSA Chapter 362-A promoting the development of facilities that utilize renewable or efficient energy inputs.

To summarize relevant portions of the Settlement Agreement, WMHC will be able to deliver more power, and the price of the power WMHC produces over and above the 2.471 million kilowatt hours per year it had been producing will be purchased by PSNH at short term avoided cost rates. Therefore, the average cost of energy purchased by PSNH from WMHC will decrease. Ratepayers will therefore benefit. For this reason and the reasons stated above, we will approve the Settlement Agreement.

Our order will issue accordingly.

Concurring: October 27, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that the Stipulation entered into between the WMHC and PSNH, which is

appended hereto as Appendix A, is hereby accepted, approved, and adopted.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of October, 1993.

APPENDIX A

D3 071393

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT, dated August 18, 1993, is made by and between *WHITE MOUNTAIN HYDROELECTRIC, CORP.* (WMHC), a New Hampshire corporation with an address of P.O. Box 715,

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Lincoln, New Hampshire 03251 and *PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE* (PSNH), a New Hampshire corporation with as address of 1000 Elm street, P.O. Box 330, Manchester, New Hampshire 03105.

WHEREAS, on April 22, 1986, the Public Utilities Commission of the State of New Hampshire (PUC) issued Order no. 18,288 in docket no. DE. 86-85, *White Mountain Hydroelectric Corporation*, (the Rate Order) and awarded certain long term rates for the sale of electric power from WMHC to PSNH under the authority of New Hampshire Revised Statutes Annotated (RSA) 362-A; and, pursuant to said Order, WMHC and PSNH signed a certain Interconnection Agreement dated December 29, 1986; and,

WHEREAS, a dispute arose between WMHC and PSNH regarding the extent of WMHC's rights under the Rate Order, and WMHC filed with the PUC a Petition for Determination and Adjudication Pursuant to RSA 362-A:5 and PSNH and WMHC sought to resolve the issues raised in said petition through informal process with the assistance of the staff of the PUC; and

WHEREAS, PSNH and WMHC, with the concurrence of the PUC staff, have reached a settlement of said dispute;

NOW, THEREFORE, in consideration of the mutual promises, covenants, agreements and benefits contained herein below, the parties agree as follows:

1. Upon payment by WMHC of an amount consistent with the standard operating procedures and practices of PSNH, PSNH shall update its most recent interconnection report regarding WMHC's Lisbon hydroelectric plant (No. 025A) or, if necessary, prepare a new interconnection report. Said reports must include conversion of the existing Lisbon 20HI 4.16.v. circuit to 19.9/34.5k.V. circuit.
2. Upon payment by WMHC, in accordance with the standard payment procedures of PSNH of the costs of interconnection, PSNH shall undertake interconnection construction in accordance with said interconnection report.
3. Prior to interconnection construction, PSNH and WMHC will execute a revised Interconnection Agreement (which will incorporate an updated Interconnection Report) reflecting the terms and conditions of this Settlement Agreement.

4. Upon completion of interconnection construction, WMHC may produce electricity and may sell its entire output of electricity to PSNH in accordance with applicable laws and Paragraph 5 of this Agreement below.

5. During the term contemplated by PUC order 18,228, PSNH shall pay for the purchase of the full output of electricity from WMHC in accordance with the rates set forth in Order No. 18,228. Said rates shall include all electricity produced by WMHC up to a maximum of 2.471 million actual kilowatt hours per billing year; the billing year will begin with the January meter reading. All electricity generated in excess of 2.471 million kilowatt hours per year shall be purchased by PSNH at the then existing short term rates as determined by the PUC.

6. PSNH and WMHC agree that each will take all action necessary in jointly supporting and obtaining an order from the PUC approving the terms and conditions of this settlement Agreement.

7. Both PSNH and WMHC hereby agree to forever release and remise the other, their agents, successors and assigns, from any and all actions, causes or manners of action arising out of the facts and allegations and issues set forth in WMHC's Petition for Determination and Adjudication Pursuant to RSA 362-A:5, which was filed with the PUC on or about December 28, 1992.

8. This Settlement Agreement shall be governed by the laws of the State of New Hampshire. Moreover, neither party, by virtue of execution of this agreement, the PUC Consent Order, or the pending interconnection report or agreement, relinquishes any prospective right or claim that either may have against the other under the laws of the United States or

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of any state or local jurisdiction. Nothing herein shall be construed to prevent WMHC, PSNH, or the PUC from acting in accordance and seeking the benefit of all laws governing the regulation of public utilities and wholesale electricity.

IN WITNESS WHEREOF the undersigned have set their hands this 18th day of August, 1993.

PUBLIC SERVICE COMPANY OF N.H.

By: Thomas B. Getz in his/her
capacity as Corporate Counsel
of Public Service Company of N.H.

WHITE MOUNTAIN HYDROELECTRIC CORP.

By: Peter Govoni, in his capacity as
Treasurer of White Mountain
Hydroelectric Corporation

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NH.PUC*10/27/93*[75243]*78 NH PUC 586*Granite State Electric Company

[Go to End of 75243]

Re Granite State Electric Company

DR 93-192
Order No. 21,005
78 NH PUC 586

New Hampshire Public Utilities Commission
October 27, 1993

Order *Nisi* Approving Cooperative Interruptible Service Program.

BY THE COMMISSION:

ORDER

On October 1, 1993, Granite State Electric Company (Granite State) filed testimony and exhibits supporting its 1993-1994 Cooperative Interruptible Service (CIS) Program effective November 1, 1993; and

WHEREAS, Granite State's filing is in compliance with the CIS Settlement (Settlement) between Staff and Granite State in docket DR 92-188, approved by the Commission in Order No. 20,684 on November 30, 1992, for effect on and after November 1, 1992; and

WHEREAS, Granite State's CIS Program provides credit to large commercial and industrial customers based on the customers' willingness to interrupt load as requested by Granite State; and

WHEREAS, under the terms of the Settlement, the CIS Program remains unmodified unless Staff, Granite State or other parties request changes which are approved by the Commission; and

WHEREAS, because neither Staff nor Granite State is proposing any changes to the Settlement, the CIS Program is updated to reflect changes in the credits based on changes to the long-run and short-run avoided capacity costs; and

WHEREAS, there have been no changes to the credits paid for customers choosing the CIS-1 option, which are based on Granite State's long-run marginal capacity costs as reflected in the wholesale rate of New England Power Company (NEP), Granite State's wholesale supplier of purchased power; and

WHEREAS, the CIS-2 credits are based on NEP's short-term power contracts, defined as less than one-year; and

WHEREAS, Granite State estimates its short-term value of capacity is \$25 per kW-year, a slight decrease from last year's value of \$27 per kW-year; and

WHEREAS, the Commission finds that the credit changes to the 1993- 1994 CIS Program

are just and reasonable; it is

ORDERED *Nisi*, that Granite State Electric Company's 1993- 1994 CIS Program is approved as filed for effect on after November 1, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published in a paper having general circulation in that part of the State in which operations are proposed to be conducted, such publication to be no later than November 1, 1993, said publication to be documented by affidavit filed with this office on or before November 10, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or

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request an opportunity to heard in this matter no later than 15 days after the publication date of this Order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective November 16, 1993, unless the Commission provides otherwise in a Supplemental Order issued prior thereto.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of October, 1993.

=====

NH.PUC*10/27/93*[75244]*78 NH PUC 587*Connecticut Valley Electric Company

[Go to End of 75244]

Re Connecticut Valley Electric Company

DR 93-151

Order No. 21,006

78 NH PUC 587

New Hampshire Public Utilities Commission

October 27, 1993

Report and Order Approving the Procedural Schedule.

Appearances: Kenneth C. Picton, Esq. for Connecticut Valley Electric Company; Susan W. Chamberlin, Esq. on behalf of the Commission Staff.

BY THE COMMISSION:

I. PROCEDURAL HISTORY

On September 7, 1993, Connecticut Valley Electric Company (CVEC or Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) to open a

proceeding on its 1994 Conservation and Load Management Programs and C&LM Percentage Adjustment (C&LMPA) for effect January 1, 1994 through December 31, 1994. On September 28, 1993, the Commission issued an Order of Notice waiving the fourteen day notice requirement pursuant to N.H. Admin. Rules Puc 201.03 and scheduling a prehearing conference for October 12, 1993.

II. POSITION OF STAFF AND THE PARTIES

At the prehearing conference the Commission Staff (Staff) and the Company agreed to a procedural schedule as stated below.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

October 12, 1993	Prehearing Conference
October 15, 1993	Staff and Intervenor Data Requests
October 29, 1993	Company Responses to Staff and Intervenor Data Requests
November 4, 1993	Technical Session
November 22, 1993	Staff and Intervenor Testimony
December 3, 1993	Company Data Requests of Staff and Intervenors
December 17, 1993	Staff and Intervenor Responses to Company Data Requests
January 5, 1994	Settlement Conference
January 13-14, 1994	Hearings on the Merits

There were no motions to intervene. In light of recent legislation granting nonlawyers and lawyers of other jurisdictions the ability to appear before the Commission, the Company stated that Mr. Kenneth C. Picton, Esq., Corporate Counsel for Central Vermont Public Service Company, would represent CVEC in the proceedings.

III. COMMISSION ANALYSIS

The Commission finds that the above stated procedural schedule as agreed to by CVEC and Staff is reasonable and it is approved.

Our order will issue accordingly.

Concurring: October 27, 1993

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ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that the procedural schedule set forth in the foregoing Report is approved.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of October, 1993.

=====

NH.PUC*10/27/93*[75245]*78 NH PUC 588*Keene Gas Corporation

[Go to End of 75245]

Re Keene Gas Corporation

DR 93-177

Order No. 21,007

78 NH PUC 588

New Hampshire Public Utilities Commission

October 27, 1993

1993-1994 Winter Cost of Gas Adjustment; Report and Order Approving Cost of Gas Adjustment.

Appearances: For Keene Gas Corporation: John F. DiBernardo, Assistant General Manager and Mr. Harry B. Sheldon, Company President. For Staff: Richard B. Deres, PUC Examiner and Mr. Robert F. Egan, Utility Analyst from the PUC Engineering Department.

BY THE COMMISSION:

REPORT

On October 1, 1993, Keene Gas Corporation, (Keene or the Company), a public utility engaged in the business of distributing gas within the State of New Hampshire, filed with this Commission certain revisions to its tariff which provided for a winter period 1993- 1994 Cost of Gas Adjustment (CGA), effective November 1, 1993. The filing requests a CGA rate of \$0.0315 per therm, excluding the NH State Franchise Tax, which is a decrease from the CGA rate of \$0.1669 per therm allowed by the Commission for the prior winter period. The proposed CGA of \$0.4529 per therm is an increase from the base rate of \$0.4214 per therm, excluding the NH Franchise Tax.

A duly noticed public hearing was held at the Commission's office in Concord, NH on October 21, 1993.

Areas covered by direct testimony and cross examination of Company witness Mr. DiBernardo included an explanation of the filing, the proposed impact of the new rates on the average customer, and inquiries into the Company's unaccounted for gas.

Since the last filing Keene Gas has lost its largest customer, Cheshire Homes. The Company, however, has continued to acquire other customers, the Keene School district, for instance, and is currently negotiating with several other businesses in a continuing attempt to broaden its customer base.

In response to questions from the staff and the Commissioner, Mr. Sheldon explained what he believes may come to pass in the gas business in the relatively near future. He cited the possibility of Iraq being allowed to once again sell its products in the world markets, and the effect that event would have on gas supply and prices later in this winter period if that comes to pass.

In the past, Keene has had between 1,000,000 to 3,000,000 gallons of propane under contract during a winter's period. However, this year Mr. Sheldon has contracted for only 1,500,000 gallons as this winter period starts. He feels that based on the aforementioned possibilities that

the price may well come down later in the winter and he would prefer not to be locked into higher priced contracts if there exists a reasonably good possibility that prices will move downward before the end of this winter period.

When questioned regarding the Company's small size and whether this precluded or limited its ability to secure contracts at reasonable prices, the Company responded that it was able to negotiate with a number of suppliers each year and its size had no apparent adverse effects on their seeking and securing contracts for propane with the major suppliers.

Additionally, questions were asked of Company officials regarding the effects of being put on allocation by the operators of the liquid propane pipeline. The Company responded that even though this has been experienced on occasion in past winters, Keene has always been able to get sufficient product to keep their customers adequately supplied.

The projected sales, costs and adjustments to the 1993-1994 winter CGA filing are consis-

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tent with those approved by the Commission in past CGA's. The Commission finds that Keene Gas Corporation's CGA rate of \$0.0315 per therm is just and reasonable and therefore accepts it as filed.

Our order will issue accordingly.

Concurring: October 27, 1993

ORDER

Upon consideration of the foregoing report, which is made a part hereof; it is hereby

ORDERED, that the 16th Revised Page 26, Superseding the 15th Revised Page 26 of Keene Gas Corporation Tariff, NHPUC No. 1 - Gas, providing for a Cost of Gas Adjustment of \$0.0315 per therm for the period November 1, 1993 through April 30, 1994 be, and hereby is, approved; and it is

FURTHER ORDERED, that the revised tariff page approved by this order become effective with all billings issued on or after November 1, 1993; and it is

FURTHER ORDERED, that public notice of this Cost of Gas Adjustment be given by a one time publication in newspapers having a general circulation in the territories served; and it is

FURTHER ORDERED, the above rate is to be adjusted by a factor of approximately 1% according to the utilities classification in the Franchise Tax Docket DR 83-205, Order No. 16,524.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of October, 1993.

=====

NH.PUC*10/27/93*[75246]*78 NH PUC 589*Connecticut Valley Electric Company, Inc.

[Go to End of 75246]

Re Connecticut Valley Electric Company, Inc.

DR 92-082
Order No. 21,008
78 NH PUC 589

New Hampshire Public Utilities Commission

October 27, 1993

Least Cost Integrated Resource Plan; Order Approving Amended Procedural Schedule.

BY THE COMMISSION:

ORDER

Connecticut Valley Electric Company, Inc. (CVEC) and the Commission Staff previously entered into a procedural schedule for CVEC's Least Cost Integrated Resource Plan (LCIP), which was approved by the Commission (and subsequently amended at the request of CVEC and the Staff); and

WHEREAS, CVEC and the Staff have been unable to meet the deadlines contained within the amended schedule due to other cases with conflicting deadlines; and

WHEREAS, CVEC and the Staff have agreed to a final amended procedural schedule for the duration of the LCIP case as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

CVEC Data Requests	November 5, 1993
Staff Data Responses	December 3, 1993
CVEC Rebuttal Testimony	December 17, 1993
Staff Surrebuttal Testimony	December 31, 1993
Hearing on the merits	January 19, 1994 at 10 a.m.;

it is hereby

ORDERED, that the final amended procedural schedule delineated above appears reasonable and will be approved.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of October, 1993.

=====

NH.PUC*10/27/93*[75253]*78 NH PUC 593*Granite State Electric Company

[Go to End of 75253]

Re Granite State Electric Company

Additional respondent: NEES Retail Company

DR 93-155
Order No. 21,015
78 NH PUC 593

New Hampshire Public Utilities Commission

October 27, 1993

Report and Order Approving Procedural Schedule.

Appearances: David J. Saggau, Esq. on behalf of Granite State Electric Company/NEES Retail Company; and Eugene F. Sullivan III, Esq. on behalf of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On August 26, 1993, Granite State Electric Company (Company) filed a request for approval of certain contracts among and between the Company and its sister retail affiliates in the New Electric System (NEES) and seven qualifying facilities. The contracts are part of the renewable resource initiative of NEES and its subsidiaries.

On September 21, 1993, the Commission issued an Order of Notice scheduling a prehearing conference for October 8, 1993, to entertain any motions to intervene and to establish a schedule to investigate the efficacy of the proposed contracts. On October 8, 1993, the Commission held a duly noticed hearing to consider the above referenced issues. No petitions to intervene in the proceeding were pre-filed and no potential intervenors appeared at the October 8, 1993, hearing.

III. POSITIONS OF THE PARTIES

The Staff and the Company agreed to the following schedule to govern the Commission's investigation into the proposed contracts:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

October 8, 1993	Prehearing Conference
October 15, 1993	Staff Data Requests
October 22, 1993	Company Data Responses
November 19, 1993	Staff & Intervenor Testimony
November 26, 1993	Company Data Requests
November 29, 1993	Technical Session
December 17, 1993	Staff Data Responses
January 4, 5, 1994	Hearing on the Merits

IV. COMMISSION ANALYSIS

The Commission finds the proposed procedural schedule in the public good.

We note that the terms of the contracts require their approval by November 24, 1993, or they become null and void, unless any of the reg-

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ulatory bodies having investigatory jurisdiction over the contracts determines that it can not fulfill its statutory obligations by that time. Thus, we find that we can not fulfill our statutory duty to ensure just and reasonable rates within the time parameters set forth in the contracts. Our order will issue accordingly.

Concurring: October 27, 1993

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the procedural schedule set forth in the forgoing report is adopted to govern the investigation into the seven qualifying facility contracts filed for our review by Granite State Electric Company on August 26, 1993.

By order of the New Hampshire Public Utilities Commission this twenty-seventh day of October, 1993.

=====

NH.PUC*10/28/93*[75247]*78 NH PUC 590*Hampton Water Works Co.

[Go to End of 75247]

Re Hampton Water Works Co.

DR 93-174

Order No. 21,009

78 NH PUC 590

New Hampshire Public Utilities Commission

October 28, 1993

Approval of Minimum Charge for 3 Inch Private Fire Service Connection.

BY THE COMMISSION:

ORDER

WHEREAS, on September 23, 1993 Hampton Water Works Co. submitted a revision to its currently effective tariff which would establish an annual charge for 3 inch private fire service

connection; and

WHEREAS, the current effective tariff for Hampton Water Works Co. does not contain an annual charge for less than a 4" inch service connection; and

WHEREAS, the methodology used to develop the proposed rate for the 3 inch service is the same as that adopted by the Commission for the existing 4 through 12 inch service connections; and

WHEREAS, after investigation and recommendation by staff, the Commission has found the proposed rate would be in the public good; it is hereby

ORDERED, that Hampton Water Works Co's proposed annual rate of \$194.46 for private service connection for 3 inch private fire service connection be approved effective on the date of this order; and it is

FURTHER ORDERED, that Hampton Water Works submit a revised page 14 specifying the charge is applicable only to 3 inch private fire service connections and annotate the page with the number of this order.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of October, 1993.

=====

NH.PUC*10/28/93*[75248]*78 NH PUC 590*Meriden Telephone Company, Inc.

[Go to End of 75248]

Re Meriden Telephone Company, Inc.

DR 93-180
Order No. 21,010
78 NH PUC 590

New Hampshire Public Utilities Commission

October 28, 1993

Order Authorizing Promotional and Market Trial Programs.

BY THE COMMISSION:

ORDER

On October 1, 1993, Meriden Telephone Company, Inc. (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce a tariff to provide promotional and market trial programs; and

WHEREAS, the Company will provide the Commission with advance notification of the time periods, locations, tracking plans and terms and conditions applicable to each promotional or market trial program; and

WHEREAS, after review of the proposed promotion and/or market trial program by the Commission Staff, and resolution of any concerns, the promotional and market trial programs will be implemented following thirty (30) days notice; and

WHEREAS, after reviewing the petition and the Staff recommendation, the Commission finds the proposed tariff revision to be in the public good; it is therefore

ORDERED, that the following tariff page of Meriden Telephone Company is approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC -No. 4Section 1- Second Revised Page 8

and it is

FURTHER ORDERED, that the above tariff page shall be effective as filed; and it is

FURTHER ORDERED, that the above addition to NHPUC No. 4 be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of October, 1993.

=====

NH.PUC*10/28/93*[75249]*78 NH PUC 591*Kearsarge Telephone Company

[Go to End of 75249]

Re Kearsarge Telephone Company

DR 93-181

Order No. 21,011

78 NH PUC 591

New Hampshire Public Utilities Commission

October 28, 1993

Order Authorizing Promotional and Market Trial Programs.

BY THE COMMISSION:

ORDER

On October 1, 1993, Kearsarge Telephone Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce a tariff to provide promotional and market trial programs; and

WHEREAS, the Company will provide the Commission with advance notification of the time periods, locations, tracking plans and terms and conditions applicable to each promotional or market trial program; and

WHEREAS, after review of the proposed promotion and/or market trial program by the Commission Staff, and resolution of any concerns, the promotional and market trial programs will be implemented following thirty (30) days notice; and

WHEREAS, after reviewing the petition and the Staff recommendation, the Commission finds the proposed tariff revision to be in the public good; it is therefore

ORDERED, that the following tariff page of Kearsarge Telephone Company is approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC -No. 7Section 1- Original Sheet 8

and it is

FURTHER ORDERED, that the above tariff page shall be effective as filed; and it is

FURTHER ORDERED, that the above addition to NHPUC No. 7 be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of October, 1993.

=====

NH.PUC*10/28/93*[75250]*78 NH PUC 591*Chichester Telephone Company

[Go to End of 75250]

Re Chichester Telephone Company

DR 93-182

Order No. 21,012

78 NH PUC 591

New Hampshire Public Utilities Commission

October 28, 1993

Order Authorizing Promotional and Market Trial Programs.

BY THE COMMISSION:

ORDER

On October 1, 1993, The Chichester Telephone Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce a tariff to provide promotional and market trial programs; and

WHEREAS, the Company will provide the Commission with advance notification of the time periods, locations, tracking plans and terms and conditions applicable to each promotional or market trial program; and

WHEREAS, after review of the proposed promotion and/or market trial program by the Commission Staff, and resolution of any concerns, the promotional and market trial programs will be implemented following thirty (30) days notice; and

WHEREAS, after reviewing the petition and the Staff recommendation, the Commission finds the proposed tariff revision to be in the public good; it is therefore

ORDERED, that the following tariff page of Chichester Telephone Company is approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC -No. 3Section 1- Original Sheet 6

and it is

FURTHER ORDERED, that the above tariff page shall be effective as filed; and it is

FURTHER ORDERED, that the above addition to NHPUC No. 3 be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of October, 1993.

=====

NH.PUC*10/28/93*[75251]*78 NH PUC 592*Kearsarge Telephone Company

[Go to End of 75251]

Re Kearsarge Telephone Company

DR 93-186

Order No. 21,013

78 NH PUC 592

New Hampshire Public Utilities Commission

October 28, 1993

Order Approving Tariff for T1 Service.

BY THE COMMISSION:

ORDER

On October 1, 1993, Kearsarge Telephone Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce a tariff to provide T1 service for effect November 4, 1993; and

WHEREAS, the Company has made this filing in response to a customer request; and

WHEREAS, the rates for this service exceed the Company's incremental and embedded costs; and

WHEREAS, service and equipment charges will be determined on an individual case basis such that they recover all appropriate costs for installation; and

WHEREAS, after reviewing the petition and the Staff recommendation, the Commission finds the proposed tariff to be in the public good; it is therefore

ORDERED, that the following tariff pages of Kearsarge Telephone Company are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC - No. 7
Section 2 -

and it is

FURTHER ORDERED, that the above tariff pages shall be effective as filed; and it is

FURTHER ORDERED, that the above addition to NHPUC No. 7 be resubmitted as required by Puc 1601.05 (k).

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of October, 1993.

=====

NH.PUC*10/28/93*[75252]*78 NH PUC 592*Forest Edge Water Company

[Go to End of 75252]

Re Forest Edge Water Company

DR 93-100
Order No. 21,014
78 NH PUC 592

New Hampshire Public Utilities Commission

October 28, 1993

Order on Prehearing Conference of October 26, 1993.

Appearances: Cynthia McInerney for Forest Edge Water Company; James Lenihan, Mark Naylor, Doug Brogan and James Thyng for the commission staff.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

This docket was opened on May 19, 1993, when the Commission received a Notice of Intent to File for a Rate Increase. On August 3, 1993 the Company requested additional time until August 19, 1993 to file its rate request. On August 12, 1993 the Company filed its request to increase its revenue by \$3,500, a rate increase of 50%. On September 9, 1993 the Commission issued Order No. 20,956 setting a prehearing conference for October 26, 1993, to establish a procedural schedule to govern the Commission's examination of the Company's petition and to address any motions to intervene in the proceedings.

The duly noticed prehearing conference was held on October 26, 1993. There were no customers in attendance. Forest Edge and the PUC staff held an off-the-record discussion to attempt to agree on a procedural schedule for the duration of the proceedings.

II. POSITIONS OF THE PARTIES

The parties stipulated to the following procedural schedule:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

December 3, 1993 Data requests to the petitioner

December 17, 1993 Data responses from the petitioner

January 14, 1994 Staff testimony

January 25, 1994 Settlement conference

February 1, 1994 Hearing on the merits

III. COMMISSION ANALYSIS

The stipulated procedural schedule appears to be reasonable and will be accepted.

Our order will issue accordingly.

Concurring: October 28, 1993

ORDER

Based on the foregoing report, which is a part hereof; it is hereby

ORDERED, that the procedural schedule recommended by the parties and set forth in the foregoing report is hereby accepted.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of October, 1993.

=====

NH.PUC*10/29/93*[75254]*78 NH PUC 594*Generic Investigation into Natural Gas Transportation Service and Rates

[Go to End of 75254]

Re Generic Investigation into Natural Gas Transportation Service and

Rates

DE 91-149
Order No. 21,016

78 NH PUC 594

New Hampshire Public Utilities Commission

October 29, 1993

Report and Order Addressing Requests for Rehearing and Reconsideration of Commission Order No. 20,950.

Appearances: Ransmeier & Spellman by Dom S. D'Ambruoso, Esq. and John T. Alexander, Esq. for Anheuser-Busch Companies, Inc.; McLane, Graf, Raulerson and Middleton by Jacqueline L. Killgore, Esq. for EnergyNorth Natural Gas, Inc.; LeBoeuf, Lamb, Leiby & MacRae by Paul Connolly, Esq. and Meabh Purcell, Esq. for Northern Utilities, Inc.; Devine, Millimet and Branch by Frederick J. Coolbroth, Esq. and Anu S. Mather, Esq. for Sprague Energy Corp.; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Business and Industry Association by Kenneth A. Colburn; James Anderson, Esq. of Office of Consumer Advocate for residential ratepayers; Amy Ignatius, Esq. for the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission) issued an Order of Notice on November 20, 1991, pursuant to a petition by Anheuser-Busch Companies, Inc. (Anheuser-Busch) for the purpose of commencing a generic investigation into natural gas transportation service and rates. The Commission granted intervention to the Business and Industry Association (BIA), Northern Utilities, Inc. (Northern), EnergyNorth Natural Gas, Inc. (ENGI), Public Service Company of New Hampshire and Northeast Utilities Service Company (collectively PSNH) and Sprague Energy Corp. (Sprague).

On December 1, 1992, ENGI and Northern jointly filed a Motion to Designate Staff, which the Commission denied in Report and Order No. 20,700 (December 15, 1992). A January 4, 1993 joint Motion for Rehearing was denied in Report and Order No. 20,734 (January 25, 1993). That denial was appealed to the New Hampshire Supreme Court by Northern; the Court, on May 5, 1993, declined to accept the appeal without prejudice to raise it upon completion of the case in full.

On April 15, 1993, Northern again filed a motion to designate certain staff, which the Commission denied in Report and Order No. 20,834 (May 4, 1993). Northern's Motion for Rehearing of Order No. 20,834 was also denied. *See* Report and Order No. 20,870 (June 15, 1993).

After 21 hearing days and two rounds of briefs, the Commission issued Report and Order No. 20,950 (September 7, 1993) (Order No. 20,950) which, *inter alia*, found transportation rates to be in the public interest, established pricing policies for both firm and

interruptible transportation and adopted, on an interim basis, the Trial Rates that were developed during the course of the proceeding. In addition, Order No. 20,950 called for a cost of service study on the appropriate level of the monthly customer charge for interruptible transportation customers to be filed within 120 days of the effective date of the Trial Rates, but kept in place a \$200 charge in the interim, a cost of service study on the incremental cost of interruptible transportation to be filed within 12 months of the effective date of the Trial Rates and concluded that there would be no minimum gas usage threshold required in order to qualify for interruptible transportation services.

On September 27, 1993 Northern filed a Motion for Rehearing and Clarification. Also on September 27, 1993, ENGI filed a Motion to Reconsider and to Clarify. OCA supported the requests for rehearing in a letter dated September 30, 1993. Anheuser-Busch, Sprague and the Staff opposed both requests. In addition to the requests for clarification contained within Northern and ENGI's requests for rehearing and/or reconsideration, Anheuser-Busch requested clarification. The requests for clarification will be addressed in a separate report and order.

This report and order will address the motions for rehearing and/or reconsideration filed by Northern and ENGI. For full procedural history, see Order No. 20,950. For a more detailed understanding of the position of the parties, see the motions filed by Northern and ENGI and the letter of OCA, and the objections filed thereto by Anheuser-Busch, Sprague and the Staff.

II. POSITIONS OF PARTIES AND STAFF

A. *Northern*

Northern asserts that Order No. 20,950 is deficient in that it fails to make specific findings of fact to support what Northern considers a major policy change in natural gas pricing. Northern also argues that the order fails to address arguments advanced by Northern, unfairly tips the balance in favor of transportation over firm service, results in confiscation of its property, ignores the arguments of all participants in the case regarding the minimum threshold for interruptible transportation service, challenges the timing of the cost of service studies, and reasserts its belief that the Commission's process is tainted by *ex parte* communications. Finally, Northern seeks a stay of Order No. 20,950 until all appeals are complete.

B. *ENGI*

ENGI asserts arguments similar to those of Northern regarding the sufficiency of the Order's findings, the policy change wrought by the Order, confiscation of property as a result of the Trial Rates, the Commission's rejection of the minimum threshold despite unanimous support by all participants for such a minimum, the timing of the cost of service studies, and its desire for a stay of the Order until all appeals are complete.

C. *OCA*

OCA supported the requests for rehearing and/or reconsideration, arguing that the Commission failed to adequately protect residential and other core customers. OCA did not support Northern's argument regarding designation of Staff.

D. Anheuser-Busch

Anheuser-Busch opposed the requests for rehearing and/or reconsideration, arguing that the Commission did not change long standing policy, that interruptible sales customers have long contributed to the cost of investments in the system and that firm ratepayers are not the only class of customers the Commission should protect, the Order is more than adequate in its detailed findings, the curtailment and balancing provisions are fair, there is no *ex parte* communication and that the fine level of detail requested by Northern and ENGI is more in the nature of a compliance tariff review than a motion for rehearing. Anheuser- Busch agreed that the timing for the cost of service studies was perhaps too tight, and recommended giving additional time for both studies to be filed.

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E. Sprague

Sprague opposed the requests for rehearing and/or reconsideration, arguing that the Order is sufficiently detailed, there is no confiscation of property, there is no *ex parte* communication and the Order should not be suspended pending appeal.

F. Staff

Staff opposed the requests for rehearing and/or reconsideration, except as to the issue of the minimum threshold for interruptible transportation service and the timing of the cost of service studies. Staff suggested reimposition of the 1000 mmbtu per month threshold at least for the duration of the two year trial period and recommended giving Northern and ENGI additional time in which to file their cost of service studies, though it opposed the request for 15 months as being excessive.

III. COMMISSION ANALYSIS

We have reviewed the requests for rehearing and/or reconsideration and find no basis on which to change our determinations in Order No. 20,950. We recognize, however that this is a decision with significant ramifications, though we do not view this as a major change in policy as suggested by Northern. For that reason, we will expand upon our reasons for our determinations in Order No. 20,950.

Further, the parties have identified three particular rulings that they consider troubling: our rejection of a minimum usage threshold and the timing of the two cost of service studies. Though we do not believe our determinations regarding the minimum usage threshold or the timing of the cost of service studies were improper, we will make modifications in this area in order to allow the natural gas industry a reasonable opportunity to adapt to our Order and develop the new services of firm and interruptible transportation.

Northern argues that the Commission has made a major policy change by adopting cost reflective rates for interruptible transportation while keeping interruptible sales priced on a value of service basis. (For a full discussion of value of service and cost of service pricing principles, *see* Order No. 20,950.)

We found in Order No. 20,950 that offering customers the option of transportation services

was in the public interest. This was a policy determination for which there was no opposition. The heated debate that ensued was over the method of pricing to be employed, namely whether pricing should be done on a cost of service basis, a value of service basis or some other pricing proposal the parties or Staff might present.

From the beginning it was clear that current pricing of interruptible sales service would *not* be a direct issue. In the order delineating the scope of issues in this case, we stated:

With regard to scoping issues, we find that neither interruptible sales pricing policy issues nor quasi-firm service issues are properly within the scope of this proceeding, except as they may incidentally arise as discussed hereinafter.

... With regard to issues pertaining to interruptible sales service, we do not believe that these issues *per se* are within the scope of this proceeding. We add, however, that the concerns expressed by Anheuser-Busch are not without merit. That is, we agree with Anheuser-Busch that it would be improper for the commission to enter into this proceeding with the preconception that an appropriate transportation pricing policy must be a clone or mirror image of our currently existing policy for interruptible sales service. We can assure all of the parties that in this proceeding the commission will not constrain itself or any party from an open-minded and comprehensive consideration of transportation pricing policy. All relevant evidence will be a part of the record including the manner in which interruptible sales is presently priced in order to provide the proper context for our deliberations.

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Ultimately, based upon the record, we expect to be able to reach determinations regarding the proper linkage between what some parties have referred to as the "inextricably intertwined" issues of transportation service pricing and interruptible sales pricing. It is possible that we may find that the respective pricing policies should be de-coupled or, if any linkage is to be maintained, changes are necessary to the interruptible sales service pricing policy. At the appropriate time, we will consider and determine whether any follow-on proceedings of any kind are needed in the aftermath of the instant generic transportation service investigation. *.in 0*

See Report and Order No. 20,378 (February 3, 1992).

All parties were put on notice from the start, therefore, that there was a possibility that we could end up with a pricing policy for interruptible transportation different from that in place for interruptible sales. We do not accept Northern's argument at this late date that to have the two interruptible services priced on a different basis results in an improper or discriminatory bias towards transportation. If Northern or any other party had felt it was improper to proceed with the case knowing that interruptible sales pricing was not at issue, and that there was a possibility of two pricing methods in place at the end of the proceeding, an appeal should have been brought of the scoping order, long before discovery and evidentiary proceedings in this case went forward.

Northern and ENGI also argue that we made a major break in policy when we adopted the Trial Rates for interruptible transportation. We find this equally

unpersuasive. Interruptible transportation is a new service; it has never existed in New Hampshire and therefore, there is no precedent for its pricing. More significantly however, use of the Trial Rates is consistent with Commission policy in numerous cases, in which we strive to approach the cost to serve a particular class of customer. The Supreme Court, in denying an appeal of the New Hampshire Electric Cooperative, Inc.'s recent rate case and debt reorganization determination, noted this philosophy with approval, stating that the Commission had found "that residential rates appear to be significantly out of line with the costs of serving the residential users, and concluded, in part, that this case presented `an opportunity for rate realignment that we should not miss.`" *Appeal of the Office of Consumer Advocate*, Case No. 92-755 Order (October 7, 1993). Contrary to the assertion that we are breaking from policy with this decision, therefore, we find it quite consistent and cannot accept any suggestion that parties to the case were unaware of the possibility of such a result.

Northern in particular, and ENGI to a lesser extent, argue that we were under an obligation to discuss the LDCs' arguments in detail and explain why we found each particular piece of evidence unpersuasive. We find no such requirement in general administrative law, the Administrative Procedures Act, RSA 541-A or the statute specific to our orders, RSA 363:17-b. We have stated that we believe transportation to be in the public interest, as it is a reasonable extension of the developments at the federal level which opens the market to gas-on-gas competition; it has the potential to provide new opportunities for natural gas users in the state and may stimulate the use of natural gas by those currently using other fuels, particularly in light of the pressures the Clean Air Act Amendments of 1992 places on utilities and other large fuel users.

We have embraced competition where possible within the realm of utility services, as is evidenced by our order in DE 90-002, the Generic Telecommunications Competition Docket. *See* Report and Order No. 20,864 (June 3, 1993) which modified the Stipulation and Agreement reached by the parties and Staff to accelerate the schedule by which the public would face meaningful competition for intrastate telecommunications services. In many ways our gas transportation order mirrors the direction we charted in the telecommunications field.

Northern and ENGI assert that our adoption of Trial Rates results in confiscation of their property. This assertion is premised on the

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belief that they will lose substantial revenues once the Trial Rates are imposed. As we stated in Order No. 20,950, we are not persuaded by Northern and ENGI's testimony that such loss will occur.

Should either LDC suffer a net loss, it may petition the Commission for recovery. We remind the LDCs, however, that a reduction from a pre-existing revenue level is not, in and of itself, a justifiable reason for a rate proceeding. While the LDCs will continue to have constitutional protection from confiscation of their property, the LDCs also have a responsibility to provide the most economical service opportunities to their customers as

possible, given market conditions and federal and state mandates. Those conditions which are now dictating a policy of open competition in the natural gas industry should be viewed by LDCs as an opportunity to expand their operations with transportation services. If there is a net revenue loss resulting from competition, then it is within the imaginative purview of the industry to maximize its revenue-making opportunities in this new competitive environment in order to restore revenue levels.

Both Northern and ENGI assert that our Order is deficient in that it does not contain what they consider to be adequate findings of fact. We reject this argument as being wholly without merit. At no time did any party request particular findings of fact, so there can be no argument that we failed to respond to any request for findings. Rather, at the close of 21 hearing days and after two rounds of briefs we sifted through the evidence and arguments and issued a highly detailed report and order, over 35 pages in length. The Order provides the parties and any entity wishing to challenge the Order on appeal adequate understanding of the issues and our determination of those issues.

Northern and ENGI cite *Company v. State*, 95 N.H. 353 (1949) as support for their assertion that Order No. 20,950 is deficient. A review of that case demonstrates how misplaced this argument is. In *Company v. State*, New England Telephone appealed a rate case determination. The Court found the Commission's report and order deficient in that it failed to identify the rate base, the authorized rate of return and the methodology used, all critical components of any rate case. As the Court stated, a "vague suspicion of wastefulness suggested by the report will not do as a justification for denying the company the relief sought..." 95 N.H. at 359.

In this case, by contrast, after introductory discussion of changes in policy at the Federal Energy Regulatory Commission and some background on value of service and cost of service pricing principles, we addressed whether to allow transportation services, how to price firm transportation, availability of stand-by service for transportation customers, proper pricing of interruptible transportation, including rate impact, rates to be imposed at the outset, whether there should be a volumetric threshold, whether curtailment policies should be amended for transportation, handling of transition costs, what types of balancing and scheduling service should be offered, whether LDCs should be allowed to compete for transportation customers and whether remote shut off capability should be required. Our Order certainly enables the Court to "undertake meaningful judicial review" of our determinations. *Legislative Utility Consumers' Council v. Public Service Company of New Hampshire*, 119 N.H. 332, 341 (1979). There is no requirement for the excessively detailed findings Northern and ENGI suggest is necessary. *See Appeal of Portsmouth Trust Co.*, 120 N.H. 753 (1980).

We read the bulk of Northern and ENGI's requests for rehearing and/or reconsideration not as an indictment of our order but dissatisfaction with the results. As we stated in the beginning of our analysis, however, there are three discreet issues which we are willing to modify, in response to the filings of the parties and Staff.

Practical considerations have been raised regarding the time limits we imposed on filing the two cost of service studies. Although we do not want to see these studies linger and hope that the LDCs can produce them sooner than they have argued, we will accept

the request that both studies be filed within 15 months of the effective date of the Trial Rates, rather than our original schedule of 120 days for the customer charge study and 12 months for the incremental cost of interruptible transportation study.

Of more concern to us is the request that we impose a minimum threshold of 1000

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mmbtu per month for a customer to qualify for interruptible transportation. We are reluctant to impose arbitrary thresholds such as this, believing that the market should determine whether interruptible transportation is a viable option for a particular customer. We recognize, however, that the record is not as fully developed on the question of a threshold as on some other issues and therefore, will accede to the wishes of the participants in the case to impose, for the duration of the two year trial period, a minimum threshold of 1000 mmbtu per month. We await, however, the response of the market to see if there are other potential customers just below that threshold who would pursue transportation services if not for our imposition of an arbitrary minimum. At the close of the Trial Period, we will receive comments from any interested party as to whether there should be a usage threshold for transportation customers.

Once again, we reject the contention that our Order is "tainted" by *ex parte* communication for the reasons cited in prior orders. There has been no assertion, let alone evidence, that we are in any way unable to render an impartial decision in this case. See Report and Order No. 20,700 (December 15, 1992), No. 20,734 (January 4, 1993), No. 20,834 (May 4, 1993) and No. 20,870 (June 15, 1993).

Finally, we deny the request for a suspension of the implementation of Order No. 20,950. We see no basis on which to halt or delay the development of transportation tariffs.

Our order will issue accordingly.

Concurring: October 29, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that the requests for rehearing of Commission Order No. 20,950 filed by Northern Utilities, Inc. and EnergyNorth Natural Gas, Inc. are denied; and it is

FURTHER ORDERED, that the requests for reconsideration of Commission Order No. 20,950 filed by Northern Utilities, Inc. and EnergyNorth Natural Gas, Inc. are granted to the extent that cost of service studies on the appropriate customer charge and the incremental cost of interruptible transportation shall be filed no later than 15 months from the implementation of the Trial Rates; and it is

FURTHER ORDERED, that the requests for reconsideration of Commission Order No. 20,950 filed by Northern Utilities, Inc. and EnergyNorth Natural Gas, Inc. are granted to the extent that there will be a minimum 1000 mmbtu per month volumetric threshold for customers seeking to take interruptible transportation service; and it is

FURTHER ORDERED, that the requests for reconsideration of Commission Order No. 20,950 filed by Northern Utilities, Inc. and EnergyNorth Natural Gas, Inc. are otherwise denied; and it is

FURTHER ORDERED, that for purposes of appeal, the Commission's order responding to requests for clarification will be considered the final order which commences the time limits for filing a notice of appeal with the New Hampshire Supreme Court.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of October, 1993.

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NH.PUC*11/01/93*[75255]*78 NH PUC 599*EnergyNorth Natural Gas, Inc.

[Go to End of 75255]

Re EnergyNorth Natural Gas, Inc.

DR 93-173

Order No. 21,017

78 NH PUC 599

New Hampshire Public Utilities Commission

November 1, 1993

Cost of Gas Adjustment; Report Addressing the Winter 1993/1994 Filing.

Appearances: McLane, Graf, Raulerson, and Middleton by Jacqueline Lake Killgore, Esquire, on behalf of EnergyNorth Natural Gas, Inc.; and Kenneth E. Yasuda, Sr., on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On October 1, 1993, EnergyNorth Natural Gas, Inc. (ENGI or the Company), a public

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utility engaged in the business of supplying natural gas in the State of New Hampshire, filed with the Public Utilities Commission (Commission) 13th revised page 1, superseding 12th revised page 1, Tariff, N.H.P.U.C No. 1 Gas, accompanied by the pre-filed direct testimony and supporting attachments of Carolyn J. Huber and Christopher P. Fleming. Said tariff provided for a positive 1993/1994 Winter Cost of Gas Adjustment (CGA), effective November 1, 1993, of

\$0.0555 per therm, exclusive of the New Hampshire State Franchise Tax. This represents an increase of \$0.024 per therm over the positive 1992/1993 Winter period per therm CGA of \$0.0315.

II. POSITIONS OF ENGI AND STAFF

A. ENGI

Pre-filed direct testimony was submitted by Carolyn J. Huber, Manager of Regulatory Affairs and Budgets, and Christopher P. Fleming, Vice President of Gas Supply and Corporate Development. Ms. Huber's testimony detailed the proposed cost of gas adjustment calculations, addressing in particular the causes of the large positive Winter CGA: the higher seasonal base unit cost of gas due to the rate design of DR 90-183 and additional charges related to FERC Order No. 636. These latter FERC-related charges included (i) a rate design change from modified fixed variable to straight fixed variable which shifted demand charges forward and (ii) the incurrence by the Company of certain transition and gas supply realignment (GSR) costs.

Ms. Huber also provided the rationale for the Company's choice to include only five months of FT-A demand and gas supply reservation charges in their filing when, normally, eight months of these demand-related charges are included in the Winter CGA. Ms. Huber calculated that if the three additional months of demand charges were included in the filing, the cost of gas adjustment would have gone up an additional \$0.035 per therm, reaching a level of over \$0.09 per therm. This would have distorted rather pronouncedly the required Winter/Summer differential in overall rates of 1.4 to 1. For these reasons, the Company chose not to shift the additional three months of demand charges (other than storage) into the Winter period.

Ms. Huber further testified that a sizeable fraction (on the order of 11.6 percent) of this year's total firm Winter demand would be met by supplemental fuels; this compares with the forecasted value of 6.6 percent for last year's Winter period. As clarified in her oral testimony as well as in Mr. Fleming's testimony, much of this year's projected increased use of supplemental fuels is due to a new contract for LNG vapor with DistriGas, which should be viewed as pipeline storage gas; it is certainly priced as such.

Mr. Fleming, in both his direct and oral testimony, described the numerous effects on the Company of the "unbundled" restructuring of the Tennessee Gas Pipeline (TGP) System, brought about by FERC Order No. 636. As one important example, Mr. Fleming described in some detail the steps the Company had taken, through the Mansfield Consortium, to secure a diversified gas supply portfolio. Two new vendors were added to replace the remaining TGP merchant service gas supply. Contracting these supplies followed the same methodology established in the first round of conversions. The six companies of the Mansfield Consortium interviewed some 15 producer/supplier/marketers. From that process, a short list of six companies was developed through a specific Request for Proposal (RFP). The final selection of vendors was determined based on contract terms and conditions which best met the group's needs and requirements.

Mr. Fleming also touched on (1) the favorable resolution of the Londonderry General Services (GS-6) gate station (TGP agreed to not charge EnergyNorth the roughly half to a million dollar construction cost of the gate station), (2) the magnitude of the FERC approved GSR costs on the TGP System (ENGI's potential exposure is on the order of \$7.2 million), and

(3) the magnitude of the TGP settlement refund to EnergyNorth in rate filing RP-91-203 (EnergyNorth could see a refund as high as \$4 million).

Expanding on the second point, Mr. Fleming pointed out that the current CGA filing included over \$1.2 million in GSR costs;

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this translated to a Tennessee-imposed demand surcharge of \$2.73 per Dth for all Firm Transportation (FT-A) Service. Mr. Fleming further noted that Tennessee estimates that by July of next year, the surcharge will reach \$3.00 per Dth, and that by next winter, the surcharge will be \$6.00 per Dth. Mr. Fleming lastly noted that the TGP settlement refund, which could come as soon as next Spring, would have the effect of offsetting, to some extent, the enormous GSR costs.

B. Staff

Robert F. Egan, Utility Analyst, testified on behalf of Staff. Upon review of the Company filing, Staff generally concluded that (i) ENGI's new gas purchasing policies are sound and reasonable, (ii) the Company is utilizing its available resources in a manner which minimizes gas costs, and (iii) EnergyNorth's proposed 1993/1994 Winter CGA of \$0.0555 per therm is just and reasonable and is in the public interest.

In his oral testimony, Mr. Egan addressed several issues from the current CGA filing and one matter from last year's proceedings. The one outstanding issue from last winter centered on the lack of documentation from the third party spot market gas bidding process. To correct this situation, the Company has designed a detailed bid sheet which clearly lists all of the third party spot market gas bids by supplier name and price. These sheets were reviewed by the Audit Staff during the course of their investigation in the current docket and were found to be adequate.

With respect to the exclusion of three months of demand charges from the current Winter period, Mr. Egan stated that Staff agreed with the reasoning offered by the Company, that this exclusion would be necessary in order to maintain the 1.4 to 1 Winter/Summer differential in overall rates. Mr. Egan further noted that underlying the 1.4 to 1 seasonal rate ratio is the Company cost structure which has probably changed due to the FERC restructuring order and the adoption of the new straight fixed variable rate design. Given the likely change in ENGI's cost structure across seasons, the 1.4 to 1 ratio will have to be reexamined closely. The best time to do this is in the Company's next permanent rate case when a new cost of service study is undertaken; this delay will also allow all of the transition and GSR costs to pass through the rates.

In reviewing the Company's gas supply procurement process, Mr. Egan noted that the plan adopted by ENGI was well thought-out and, in all likelihood, will yield a diversified and reliable gas supply portfolio. Mr. Egan also noted that EnergyNorth's participation in the Mansfield Consortium was tactically very astute and allowed the Company to have more "market power" when negotiating with the various gas producer/supplier/marketers. This will ultimately lead to lower prices paid by all of EnergyNorth's ratepayers.

Lastly, Mr. Egan, speaking on behalf of Staff, remarked that the technical sessions conducted

in this proceeding contributed greatly to the speedy and thorough review of the filing and acknowledged the cooperation of the Company in that process.

III. COMMISSION ANALYSIS

The Commission finds that ENGI has utilized its available resources in a manner which minimizes its natural gas costs. In particular, we find the gas supply procurement process outlined by the Company reasonable and cost effective. We also find the proposed CGA rate of \$0.0555 per therm, before the adjustment for the State Franchise Tax, just and reasonable and in the public interest. Nevertheless, we would expect the Company to make a mid- course correction should changes in spot market gas prices result in gas costs markedly different from those projected.

With respect to the Company's proposed exclusion of three months of demand charges from the upcoming heating season, the Commission finds the arguments advanced by both the Company and Staff compelling and accepts this one time departure from accepted practices. We are also cognizant of the likely change in the Company's cost structure and will closely review the 1.4 to 1 seasonal rate differential in EnergyNorth's next permanent rate case.

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Our order will be issued accordingly.

Concurring: November 1, 1993

ORDER

Upon consideration of the foregoing report, which is made a part hereof; it is hereby

ORDERED, that the 13th revised page 1, superseding 12th revised page 1, Tariff, N.H.P.U.C No. 1 Gas filed by EnergyNorth Natural Gas, Inc. (ENGI), providing for a Cost of Gas Adjustment of \$0.0555 per therm for the period November 1, 1993 through March 31, 1994 be, and hereby is, approved; and it is

FURTHER ORDERED, that the over/under collection will accrue interest at the Prime Rate reported in the *Wall Street Journal*. The rate is to be adjusted each quarter using the rate reported on the first day of the month preceding the first month of the quarter; and it is

FURTHER ORDERED, that should the monthly reconciliation of known and projected gas costs deviate from the 10% trigger mechanism, ENGI shall file a revised Cost of Gas Adjustment; and it is

FURTHER ORDERED, that the above rate is to be adjusted by a factor of approximately 1% according to the utility classification in the Franchise Tax Docket DR 83-205, Order No. 16,524.

By order of the New Hampshire Public Utilities Commission this first day of November, 1993.

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NH.PUC*11/01/93*[75256]*78 NH PUC 602*Generic Investigation into Natural Gas Transportation Service and Rates

[Go to End of 75256]

Re Generic Investigation into Natural Gas Transportation Service and Rates

DE 91-149
Order No. 21,018
78 NH PUC 602

New Hampshire Public Utilities Commission

November 1, 1993

Report and Order Clarifying Report and Order No. 20,950.

Appearances: Ransmeier & Spellman by Dom S. D'Ambruoso, Esq. and John T. Alexander, Esq. for Anheuser-Busch Companies, Inc.; McLane, Graf, Raulerson and Middleton by Jacqueline L. Killgore, Esq. for EnergyNorth Natural Gas, Inc.; LeBoeuf, Lamb, Leiby & MacRae by Paul K. Connolly, Esq. and Meabh Purcell, Esq. for Northern Utilities, Inc.; Devine, Millimet and Branch by Frederick J. Coolbroth, Esq. and Anu R. Mather, Esq. for Sprague Energy Corp.; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Business and Industry Association by Kenneth A. Colburn; James R. Anderson, Esq. of Office of Consumer Advocate for residential ratepayers; Amy L. Ignatius, Esq. for the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. INTRODUCTION

On September 7, 1993, the New Hampshire Public Utilities Commission (Commission) issued Report and Order No. 20,950 (the Order) addressing natural gas transportation and pricing. On September 27, 1993, EnergyNorth Natural Gas, Inc. (ENGI) timely filed a Motion to Reconsider and to Clarify, Northern Utilities, Inc. (Northern) timely filed a Motion for Rehearing and Clarification and Anheuser-Busch Companies, Inc. (Anheuser-Busch) timely filed a Motion to Clarify the Order.

On September 30, 1993, Northern filed a Motion in Opposition to the Motion for Clarification of Anheuser-Busch. Commission Staff (Staff), Anheuser-Busch and Sprague Energy Corp. (Sprague) filed on October 7, 1993, objec-

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tions and responses to the above mentioned Motions. This Report and Order responds to the various requests for clarification.

Because of the number of issues covered in the requests for clarification, we will maintain

the format used in the Order. That is, requests for clarification will be grouped under subject headings followed immediately by our decision on the request.

II. ISSUES AND COMMISSION DECISIONS

A. *Firm Transportation Rate Design*

1. ENGI requests that the Commission clarify whether a single firm transportation rate schedule should be developed for all customers or a separate schedule for each customer class.
2. ENGI requests that the Commission clarify that firm transportation rates are to be developed using the same rate design methodologies as used to design existing firm sales rates.
3. Northern alleges the Order provides no explanation for our decision not to allow demand charges in firm transportation rates, and does not address Staff's distinction between interruptible sales customers requesting firm transportation service and firm sales customers.

Commission Decision

1. While we believe the intent of the Order is clear, we will nonetheless clarify that a firm rate schedule is to be developed for each class of customers.
2. Firm transportation rates are to be developed using the same methodologies as used to design existing firm sales rates.
3. As acknowledged by Anheuser-Busch, Sprague and Staff, we directed on page 8 of the Order that firm transportation rates be based on the same cost allocation and rate design methodologies that were used to develop existing firm sales rates. As noted by Sprague, those methodologies do not provide for demand charges. Our reasoning was to ensure a level playing field for the two firm services which is a principle that underlies the Order. On page 9, we noted that the LDCs failed to establish that in the absence of demand charges, costs would be stranded.

B. *Stand-by Sales Service*

1. ENGI and Northern request that the Commission clarify whether stand-by sales service for firm transportation customers is at the option of the LDC or the transportation customer.
2. Northern requests that the Commission explain why LDCs are prevented from making stand-by sales service conditional on receipt of an assurance that all costs will be paid. Northern and ENGI also request clarification of the "limited period" recovery mechanism mentioned on page 11 of the Order.
3. ENGI asks how the fixed and variable costs of stand-by service should be calculated.
4. ENGI asks how it should factor in the seven day storage requirement into its calculations.
5. ENGI asks whether contributions in aid of construction should be required from transportation customers.
6. ENGI requests clarification with respect to the provision of stand-by service to interruptible transportation customers.

Commission Decision

1. We accept that the Order is unclear as to whether LDCs have the option to provide stand-by service. Our intent was and is to make that option available at the request of the

transportation customer.

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2. LDCs are precluded from conditioning stand-by sales service for firm transportation customers on an assurance that customers will pay all costs associated with the provision of that service; to do so would result in different standards for firm sales and firm transportation customers. With respect to the limited period recovery mechanism, the language of the Order was chosen carefully to encourage creativity in the design of reservation charges. LDCs should combine sound judgment and good utility practice to develop reasonable charges. We will not, however, approve any reservation charge proposal that is overly burdensome compared with the applicable terms and conditions for firm sales customers.

3. The Order is clear that stand-by service charges should reflect the incremental capital and variable costs of providing the service.

4. As noted by Staff, the seven day storage requirement is not part of the record in this case. LDCs should therefore use sound judgement and good utility practice to determine whether this aspect of their operations needs to be incorporated into tariff calculations. This is an issue that will be addressed as part of the tariff review process.

5. Similarly, contributions in aid of construction is not an issue in the record. This problem can be resolved through a combination of sound judgement and adherence to the principles that underlie the Order. Many of the issues raised by ENGI, including this one, will be addressed as part of the tariff review process after the tariffs have been filed.

6. We acknowledge that the Order does not detail our position on the provision of stand-by service to interruptible customers, even though the issue was addressed in the Order. We will reject the service proposed by Northern and ENGI because it is offered on the condition that prices be set based on value-of-service. To do otherwise, would be inconsistent with our adoption of cost-based, non-discriminatory transportation services. We approve the unbundled as-available service proposed by the Joint Recommendations.

C. Flexing Interruptible Transportation Rates

1. Northern and ENGI believe clarification is necessary with respect to the "flexing down" of the Trial Rates. According to Northern, the Order fails to explain how and when flexing should occur and whether the rates should be flexed on a system-wide basis or on a customer-specific basis. Sprague also believes clarification of the Commission's flex policy would be helpful and suggests allowing LDCs to discriminate on an alternative fuel specific basis.

Commission Decision

1. LDCs can flex the Trial Rates down to remain competitive, but the flexing must be done on a non-discriminatory basis. A customer receiving transportation service should be billed for that service under the same rate schedule that is used to bill all other customers receiving the same service. It is left to the judgement of the LDCs to determine when and by how much rates should be flexed. With respect to the objectives LDCs should pursue when developing flex strategies, given our longstanding policy of maximizing revenues from interruptible sales customers and our decision in this case to require non-discriminatory pricing of transportation

services, we will direct LDCs to develop non-discriminatory revenue-maximizing flex strategies. We reject Sprague's suggestion because it leads directly to alternate fuel-based prices and thus runs counter to our adoption of cost-based pricing for transportation service.

D. Curtailment of Transportation Service

1. ENGI and Anheuser-Busch request clarification with respect to the rate of compensation for gas confiscated from transportation customers.

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2. Anheuser-Busch requests that the Commission clarify whether an LDC can curtail service to interruptible transportation customers prior to that LDC utilizing all of its surplus system gas, that is, prior to curtailing all interruptible sales service loads. Anheuser-Busch believes that interruptible transportation service should only be curtailed when there is a physical capacity shortage. Northern states, in its opposition to Anheuser-Busch's motion for clarification, that it would *not* interrupt service to interruptible customers because of a capacity shortage but rather would interrupt when service can only be provided by producing additional quantities of costly supplemental supplies.

Commission Decision

1. The parties to the Joint Recommendations proposed that the rate be set at the transportation customer's alternate fuel price. This position was also supported by Northern and by ENGI. We accept the parties' recommendation and direct that compensation be paid at a rate equal to the customer's alternate fuel price.

2. We agree with Northern that the appropriate time to interrupt service to interruptible transportation customers is when the LDC's supplemental sendout requirements would be greater with the transportation load on the system. This situation might arise when customer-owned gas is delivered through the LDC's interstate pipeline capacity or, as noted by Northern, when the LDC is unable to deliver the gas directly to the customer's facility. However, if the LDC can deliver the gas directly and is not faced with a shortage of gas supplies that requires firm customers to be curtailed, that LDC is precluded from interrupting transportation service if some other LDC's interstate pipeline capacity is being used to deliver the customer-owned gas. For example, a transportation customer of ENGI may have its gas delivered to an ENGI delivery point through capacity released by Northern. In all other respects, we believe that to maintain a level playing field the interruption of interruptible sales and transportation services should be performed on a pro-rata basis. Finally, as recommended by Northern, LDCs are precluded from curtailing transportation service in order to reduce supplemental sendout requirements.

E. Transition Costs Related to Interruptible Transportation

1. ENGI requests clarification with respect to the treatment of transition costs associated with the provision of interruptible transportation service.

Commission Analysis

1. With respect to the federal transition costs, the Order is clear that the issue of cost recovery and cost allocation will not be addressed until it has been heard by the FERC.

Similarly, we stated that the issue of cost recovery for the buy-out of LDC gas supply and pipeline capacity contracts will only be addressed when those costs are actually incurred.

F. Balancing and Scheduling Services

1. Under this heading, ENGI requested that the Commission clarify its intentions with respect to the accounting treatment of capacity release revenues. ENGI also asked whether LDCs could retain a portion of the release revenues.

2. ENGI asked several questions relating to the ground rules governing an LDC's interaction with pipeline electronic bulletin boards for capacity release transactions.

3. ENGI requests clarification on several issues relating to the distribution of pipeline penalties and balancing and scheduling terms and conditions. With the exception of 19 (d), Staff believes that the Order is clear on the issue of balancing and scheduling.

4. Anheuser-Busch requests the Commission clarify that LDCs are not precluded from offering a transportation administration service to firm and interruptible transportation customers.

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Commission Decision

1. While the Order directs LDCs to utilize interstate pipeline release programs to deposit surplus capacity, the record provides no guidance on the accounting treatment of the resulting revenues. Consistent with the treatment of interruptible sales revenue, we will require LDCs to credit the cost of gas expense account with all revenues from capacity release programs. With respect to revenue retention, we agree with Staff that the issue was not raised during the proceeding and is not necessary to the development of a transportation policy.

2. The ground rules governing an LDC's interaction with electronic bulletin boards are not part of the record. We do not believe the detailed workings of electronic bulletin boards are necessary to the development of a transportation policy, but we will direct the Staff to convene a technical session on this issue after tariffs have been filed.

3. The Order makes clear that an imbalance penalty caused by a transportation customer will be borne by that transportation customer. The Order is also clear that transportation customers will be responsible for balancing their own gas, consistent with the terms and conditions of the tariffs to be developed. We believe the Order provides LDCs sufficient guidance to develop those tariffs. With respect to the issue of compensation for use of the Operational Balancing Agreement, we agree with Staff that if there is a tangible cost associated with ownership of the "asset" then LDCs should factor that into their customer cost calculations.

4. The Order does not preclude an LDC from offering a transportation and administration service. However, as recommended by Staff, such a service can only be offered on a non-discriminatory basis.

G. LDCs as Gas Marketers

1. Northern requests that the Commission clarify the statement that appears on page 33 of the Order: namely, that "with respect to regulated gas marketers, we recognize the potential for anti-

competitive behavior if the LDCs are given first-call on interstate pipeline capacity not used by core ratepayers". Northern alleges that there is no evidence to support the suggestion that the LDCs have in the past or will in the future engage in anti-competitive conduct.

2. Northern also contends that the Commission must explain its ruling that to check such conduct the LDCs must use the interstate pipeline's capacity release program both as a depository for surplus capacity and as a means to procure capacity for non-core customers.

3. Northern and ENGI also request that the Commission clarify whether they must release all of their surplus capacity or if they will be permitted to retain capacity to meet interruptible sales loads.

Commission Decision

1. There is no evidence to indicate that ENGI or Northern have engaged in anti-competitive behavior. Notwithstanding this, however, we must be mindful of that possibility, given that: (a) interruptible sales and interruptible transportation services may be competitive; (b) both are dependent on the availability of interstate pipeline capacity; and (c) only LDCs are authorized to provide sales services.

2. We disagree with Northern that our decision to require LDCs to use the interstate pipeline capacity release program was not supported by the evidence. As Staff correctly notes, there was extensive testimony that pipeline capacity release programs would be an important source of revenue to offset potential transition costs. Furthermore, Northern's own expert witness stressed the importance of a level playing field in the development of transportation policy. We agree with him but believe that objective cannot be achieved if some gas suppliers have greater access to scarce pipeline capacity than others.

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3. With respect to the last request, the Order states that LDCs are required to use the capacity release program "as a means to procure capacity for non-core customers". We did not intend to apply that directive only to interruptible transportation customers. LDCs should use good utility practice when determining the amount of surplus capacity to be released.

H. *Other Matters*

1. ENGI asks for an extension to file the required cost studies for interruptible transportation and requests that firm transportation service be delayed for 24 months.

2. ENGI requests confidential treatment of the semi-annual transportation reports.

Commission Decision

1. We address the issue of an extension in our Order on Rehearing. With respect to tariffs for firm transportation, the Order is clear; the filing date is within 60 days of the final order. We will deny ENGI's request to delay that service.

2. LDCs have the ability under RSA 91-A to request at any time that existing documents be protected. The Commission will not address such a request in the abstract.

Our order will issue accordingly.

Concurring: November 1, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that all natural gas LDCs franchised in the State of New Hampshire file within 60 days of this order firm and interruptible transportation tariffs.

By order of the Public Utilities Commission of New Hampshire this first day of November, 1993.

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NH.PUC*11/01/93*[75257]*78 NH PUC 607*Northern Utilities, Inc.

[Go to End of 75257]

Re Northern Utilities, Inc.

DR 93-191
Order No. 21,019
78 NH PUC 607

New Hampshire Public Utilities Commission

November 1, 1993

Report and Order Approving the Settlement Agreement for the 1993 Step Adjustment.

Appearances: LeBoeuf, Lamb, Leiby & MacRae by Paul K. Connolly, Jr., Esq. and Scott J. Mueller, Esq. on behalf of Northern Utilities, Inc.; and for the Public Utilities Commission, Stuart A. Hodgdon.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On July 21, 1992, the Commission issued its Order No. 20,546 (Docket No. DR 91-081) approving the Settlement Agreement on permanent rates for Northern. Article III of that Settlement Agreement provided for the implementation of step adjustments in base rates to be effective for meter readings on or after November 1, 1992, and annually thereafter until the agreed bare steel replacement program is completed. Based on a review by the PUC Gas Safety Engineer, there definitely was a serious safety problem on the Company's bare steel distribution system. The Safety Engineer suggested to the Company that a two-phase program be implemented: the first phase would schedule replacement of areas that required immediate repair, the second phase would schedule replacement of areas that did not pose any immediate risk to safety. On September 20, 1993, Northern filed revised tariff pages and a petition with the Commission seeking authorization for a second annual step adjustment in the amount of \$222,176. The Staff conducted an audit at the Company's headquarters in Westborough,

Massachusetts on September 12, 1993, September 13, 1992 and October 6, 1993 with respect to Northern's proposed step adjustment. Following extensive discussions the Staff and Northern reached agreement on the issues in this proceeding. On October 22, 1993, a hearing was held regarding the Company's proposed step adjustment. At

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the hearing, the Company submitted testimony of Richard P. Cencini, Director of Regulatory Affairs, addressing the Settlement Agreement entered into by the Staff and the Company.

II. OVERALL SETTLEMENT AGREEMENT

The Company's original petition and exhibits proposed a Step Adjustment in the amount of \$222,176. Based on a review of the Company's books and records including updates to increase the originally forecast activity for September 1993, the parties agreed to a Step Adjustment in the amount of \$267,753 (Exhibit 1). Both Staff and the Company agree that this amount is just and reasonable.

III. COMPONENTS OF THE SETTLEMENT AGREEMENT RETURN AND RELATED INCOME TAXES ON CERTAIN NON-REVENUE PRODUCING INVESTMENT

The return and related income taxes on Northern's investment for the period October 1, 1992 through September 30, 1993 is shown on Attachment A (\$108,320). The amount of the step adjustment has been calculated using the actual capital expenditures for the above stated period adjusted as a result of the staff audit and the pre- tax rate of return of 13.19 percent and reflecting cost of service principles including the treatment of the deferred tax reserve. Staff believes that this amount is appropriate.

A. *Annualized Depreciation Expense*

Annualized depreciation expense for service investments and annualized depreciation expense for other than service investments is based on Northern's actual plant additions mentioned above and the depreciation rates included in the Settlement Agreement on permanent rates. Annualized depreciation expense for replacement services and other than replacement services is based on actual plant additions mentioned above and the depreciation rates of 3.14 percent and 3.05 percent respectively as included in the Settlement Agreement on the Step Adjustment. The parties agree that the expense which results from the use of the 3.14 percent and 3.05 percent depreciation rates is fair and reasonable. These expenses are summarized on Attachment A, (\$26,220).

B. *An Adjustment for Post Retirement Benefits Expense (FAS 106)*

An adjustment of \$226,331 related to Post Retirement Benefit Expense (FAS 106), as shown on Attachment B, which in accordance with a stipulation in Docket No. DA 92-199 approved by the Commission on April 5, 1993 in Order No. 20,806, is properly included in this Step Adjustment.

C. *Adjustment for Domtar Net Revenues*

The Step Adjustment has been reduced in accordance with a formula agreed upon as part of the settlement on permanent rates and reflects an amount equal to pro forma net revenues from

Domtar calculated in accordance with Attachment C, (\$133,118). The parties agree that this amount is fair and reasonable.

IV. COMMISSION ANALYSIS

As part of the settlement on the Company's permanent rates, the Staff did not include in rate base the amount of estimated additions during the period subsequent to the test year (i.e., October 1992 through September 1993). The Commission normally does not allow plant added after the end of the test year (i.e., March 31, 1991) unless it is an extraordinary event. However, in view of the comments by the PUC Gas Safety Engineer (see below), Staff recommended at the time of the permanent rate settlement that the Commission provide for a rate adjustment in the future to include such additions in a step adjustment. Staff indicated that at a set time interval after the permanent rate adjustment, the Commission could look at the plant additions. Article III of the Settlement Agreement on permanent rates summarized the criteria to be used in the calculation of Step Adjustments.

Based on a review by the PUC Gas Safety Engineer, Northern Utilities has undertaken a major capital project to ensure safe service to

Page 608

its customers. This capital project was undertaken because of a serious problem regarding leaks, the majority of which occurred on a bare steel system. Regarding the bare steel system, the PUC Gas Safety Engineer suggested that the Company approach the problem of corrosion and leaks in two phases. The first phase would schedule replacement of areas that required "immediate repair" and the second phase would address replacement of areas that did not pose "immediate" risk to safety. The Company agreed with the PUC Engineering Staff to accelerate its program to replace bare steel mains. The Company and the PUC Staff agreed that these replacements are required and both parties recognize that this results in significant dollars being expended on this category of capital expenditures.

Overall, the above described program is a sound and positive approach to correct the overall corrosion problem and provide the required safety to customers.

Based on the above and based on the audit and review of the Company's books and records, regarding the non-revenue producing investments, annualized depreciation expense and post-retirement benefits (FAS 106), the Commission believes that the Step Adjustment amount of \$267,753 (Exhibit 1) is just and reasonable.

Our order will issue accordingly.

Concurring: November 1, 1993

ORDER

Upon consideration of the foregoing report, which is made a part hereof; it is hereby ORDERED, that the settlement agreement be, and hereby is, approved; and it is

FURTHER ORDERED, that Northern Utilities file a revised tariff in compliance with this order; and it is

FURTHER ORDERED, that the revised tariff page approved by this order become effective with all billings issued on or after November 1, 1993.

By order of the Public Utilities Commission of New Hampshire this first day of November, 1993.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Exhibit 1
Updated 10/12/93

Northern Utilities, Inc.
New Hampshire Division
Summary of Proposed Step
Adjustment Revenues

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Attachment A
Updated 10/12/93

Northern Utilities, Inc.
New Hampshire Division
Docket 91-081
Proposed Step Adjustment - Bare Steel

July 1993

Mains:
Performance/
Compliance
Municipal
Improvements
System
Improvements
Services:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Total Bare Steel replacements (October 1992 through September 1993) \$857,696
Less: Incremental Deferred Income Taxes Related to Plant Additions
from Previous Step Adjustment 36,470

Sub-Total Rate Base	\$821,226
Return & Related Income Taxes at Pre-Tax Rate of Return of 13.19%	108,320
Revenue Requirements for Step Adjustment: Return on Plant Investment	Annual Depreciation
Expense	
Total Step Adjustment Revenue requirement related to Bare Steel Replacements	

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Attachment B

ALLOCATION OF FAS 106 EXPENSE TO -
NEW HAMPSHIRE DIVISION

Consolidated Post-
Retirement Benefit Expense
(FAS 106) per Exhibit A

Percentage applicable
to Northern Utilities-NH
Division

Total NH employees

Total employees

Amount applicable to
Northern Utilities-NH Division

Five-year amortization of deferred
PBOP expense (estimated one month
deferral of annual amount of \$349,870)
Less:
DR91-081 cost of service
Increase in FAS 106 expense
Percentage applicable to
Operating and Maintenance Expense
Adjustment to Northern New
Hampshire Cost of Service

[Graphic(s) below may extend beyond size of screen or contain distortions.]

B) CARRYING COSTS ON PROFORMED PREPAID ASSET (See Note)

Projected Prepaid Balance 9/30/93

Pretax cost of capital in DR91-081

Carrying Charges for Balance at 9/30/93

C) Step Adjustment amount

FAS 106 Expense Increase
Carrying charges on prepaid asset
Total FAS 106

NOTE: There is no deferred tax reserve as of 9/30/93 because the Company treats these book/tax differences on a flow-through basis; hence no reserve for taxes has been provided. See Northern Utilities, Inc. Docket DA 92-199, Audit Request #2, September 30, 1993.

Page 611

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Attachment C
Updated 10/12/93

DOMTAR NET REVENUES
October 1992 - September 1993

(1)

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Total Net Revenues

Total Net Revenues from
First Step Adjustment

Domtar Revenue Adjustment

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NH.PUC*11/01/93*[75258]*78 NH PUC 613*Claremont Gas Corporation

[Go to End of 75258]

Re Claremont Gas Corporation

DR 93-178
Order No. 21,020
78 NH PUC 613

New Hampshire Public Utilities Commission
November 1, 1993

Report and Order Approving 1993/1994 Cost of Gas Adjustment.

Appearances: Ransmeier and Spellman by Dom S. D'Ambruoso, Esq., on behalf of Claremont Gas Company; E. Barclay Jackson, Esq., for the Staff of the Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On October 1, 1993, Claremont Gas Corporation (Claremont) filed with the New Hampshire Public Utilities Commission (Commission) 142nd Revised Page 12-2 Tariff, N.H.P.U.C. No. 11-Gas.

On October 20, 1993, Claremont withdrew the prior filed tariff page and filed another tariff page: 143rd Revised Page 12-2 Tariff, N.H.P.U.C. No. 9- Gas. The 143rd Revised Page 12-2 Tariff provided for a 1993/94 Winter Cost of Gas Adjustment (CGA) of (\$0.1097) per therm, before franchise tax, for effect November 1, 1993. This is a decrease of \$(0.1432) over the current effective rate of \$0.0335 per therm before franchise tax.

By Order of Notice dated October 12, 1993, the Commission scheduled a CGA hearing for October 21, 1993.

On October 21, 1993, a public hearing was held at the Commission offices, at which time Claremont and the Commission Staff (Staff) presented testimony and exhibits in support of a revised CGA which resulted from Staff's review and correction of Claremont's filing. The revised CGA was introduced into evidence by Staff as Exhibit 2.

At the public hearing on October 21, 1993, Claremont agreed to Staff's methodology, figures, and provisions presented in Exhibit 2 with the exception of one.

II. POSITIONS OF CLAREMONT AND STAFF

A. Revised CGA - Exhibit 2

Staff and Claremont agreed that Exhibit 2 (attached hereto as Attachment A) represents a correct reconciliation of the actual cost of gas for the winter period 1992-93 and the estimated cost of gas for the winter period 1993-4. It itemizes correctly the beginning balance due to overcollection, the estimated number of therms required after the removal of the Sugar River Mills customer which is to be phased out of the system, and the price per therm required after the removal of storage and cost of money expenses which are no longer necessary. The cost of gas adjustment calculation resulting from the above corrections is a negative \$0.1108.

B. Claremont's Argument for rental income

On the one issue of estimated annual rental income realized from rental of a 30,000 gallon bulk tank, currently listed on Exhibit 2 as \$22,231.93, Claremont disagrees with Staff. The tank is located on Claremont's premises and is rented by Synergy Corporation, the non-regulated propane retailer of which Claremont is an affiliate. Payment of a flat fee plus \$0.026 per gallon of gas put through the tank (throughput) has been the rental price charged Synergy by Claremont in the past. This rental price was established at a time when the amount of throughput was low.

Now that throughput is substantial, Claremont argued, that method of rental calculation is inappropriate as it results in annual rental income of more than half the value of the tank.

Claremont argued that the rental income should be calculated at 9% of the value of the tank, plus real property tax. Claremont argued that 9% is the return on property used and useful which the Commission has found to be just and reasonable. After the hearing, Claremont submitted as Exhibit 3, which had been reserved for the purpose, a revised CGA incorporating the 9% of value plus property tax calculation.

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C. Staff's Argument against rental income

As the dispute about rental income did not arise before the hearing, Staff's witness suggested that a study to determine the appropriate rent should be conducted. In that way, Staff argued, Claremont and Staff could take careful heed of all the variables affected such a determination. Adjustment to the CGA next year would take into the charge account. Alternatively, Staff argued, if a study were to be completed quickly, a change to the CGA could be accomplished sooner if the adjustment contemplated were 10% or more and therefore set off the trigger mechanism for immediate adjustment. Staff witness Robert Egan testified that he believes the rental amount is too high. After the hearing Staff submitted a memorandum recommending that a study of the rental be instituted and that a temporary charge of \$0.010 per gallon throughput be used in the calculation. Staff took the \$0.010 figure from previous throughput charges by other New Hampshire gas utilities, specifically EnergyNorth.

III. COMMISSION ANALYSIS

Having carefully reviewed the filings and testimony of Claremont and Staff, we will accept the methodology and figures submitted by Claremont and Staff in Exhibit 2 except for the rental income realized on the 30,000 gallon bulk tank. We accept the testimony of Staff and Claremont that the current throughput charges are too high. Although adequate information upon which to base a new, permanent throughput charge has not been developed by Staff or by Claremont, we find the inequity of the current charge to be sufficient to require immediate adjustment. Therefore, we will order Staff to undertake a study in order to determine the appropriate charge before the 1994 Summer Cost of Gas proceeding. As an immediate adjustment, we will take official notice of prior audits of other New Hampshire gas utilities by the Commission Staff, showing throughput charges of \$0.01 per gallon, and we will order throughput charges be made in that amount. Recalculating the cost of gas using the \$0.01 per gallon rental charge results in a negative \$.0484 adjustment, before the franchise tax.

Our order will issue accordingly.

Concurring: November 1, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that Claremont Gas Corporation shall file a compliance tariff to provide for a Winter Cost of Gas Adjustment of \$(0.0484) per therm, before the franchise tax, effective

November 1, 1993 through April 30, 1994; and it is

FURTHER ORDERED, that the Staff of the New Hampshire Public Utilities shall undertake and complete, with the assistance and cooperation of Claremont, a study to determine the appropriate rental income for the 30,000 gallon tank; and it is

FURTHER ORDERED, that said study shall be submitted to the Commission no later than 30 days prior to the date scheduled for Claremont's Summer Cost of Gas proceeding.

By order of the New Hampshire Public Utilities Commission this first day of November, 1993.

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NH.PUC*11/01/93*[75259]*78 NH PUC 614*Northern Utilities - New Hampshire Division

[Go to End of 75259]

Re Northern Utilities - New Hampshire Division

DR 93-169

Order No. 21,021

78 NH PUC 614

New Hampshire Public Utilities Commission

November 1, 1993

Cost of Gas Adjustment; Report Addressing the Winter 1993/1994 Filing.

Appearances: LeBoeuf, Lamb, Leiby, and MacRae by Scott Mueller, Esquire, on behalf of Northern Utilities, Inc.; and Robert F. Egan, on behalf of the Staff of the New Hampshire Public Utilities Commission.

[Page 614](#)

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On October 1, 1993, Northern Utilities, Inc., (Northern or the Company), a public utility engaged in the business of distributing and transporting natural gas in select cities and towns of New Hampshire, filed with the New Hampshire Public Utilities Commission (Commission), Fifth Revised Page 32, Sheet No. 1, superseding Fourth Revised Page 32, N.H.P.U.C., which provides for a Winter 1993/1994 Cost of Gas Adjustment (CGA) effective November 1, 1993. The filing was accompanied by the pre-filed direct testimony and supporting attachments of Joseph A. Ferro, Elizabeth S. McDonough, and Thomas A. Sacco.

On October 18, 1993, Northern filed with the Commission, Sixth Revised Page 32, Sheet No. 1, superseding Fifth Revised Page 32. Northern's updated 1993/1994 Winter CGA is a charge of \$0.0710 per therm, exclusive of the New Hampshire State Franchise Tax. This represents an increase of \$0.1087 per therm over the 1992/1993 Winter period per therm credit of (\$0.0377).

II. POSITIONS OF NORTHERN AND STAFF

A. NORTHERN

Pre-filed direct testimony was submitted by Joseph A. Ferro, Manager of Gas Costing and Rate Analysis, Elizabeth S. McDonough, Senior Rate Analyst, and Thomas A. Sacco, Vice President of Gas Supply. Mr. Ferro's testimony detailed the proposed cost of gas adjustment calculations, addressing in particular the causes of the large positive Winter CGA: the higher seasonal base unit cost of gas due to the rate design of DR 91-081, the under/over reconciliation of collections, the increased reliance on supplemental fuels for the upcoming heating season, the inclusion of an additional month of demand charges in this filing (resulting in a total of nine months of demand charges), and additional charges related to FERC Order No. 636. These latter FERC-related charges included (i) a rate design change from modified fixed variable to straight fixed variable which shifted demand charges forward and (ii) the incurrence by the Company of certain transition and gas supply realignment (GSR) costs.

Mr. Ferro explained that the expected increase in supplemental fuel use is due to the anticipated reduction in ProGas gas supply volumes, when compared with last year. ProGas, a firm Canadian supply, was fully available last winter (before the completed construction of the MassPower electric generating plant) and was used to displace the more costly supplemental fuels. This year's envisioned reduction in ProGas volumes is the direct result of the MassPower plant coming on line. The ProGas supply to Northern becomes available on any day that the MassPower facility is not purchasing 75 percent of its contracted volume from ProGas.

In commenting on the inclusion of an additional month of demand charges in this filing, Mr. Ferro explained that it was to more accurately reflect the cost of meeting the peak heating load. Unlike EnergyNorth Natural Gas, Inc., Northern does not have a rate case imposed upper bound on the Winter/Summer differential in overall rates.

During cross-examination, Staff questioned Mr. Ferro on the projected decline in the profit margin from interruptible sales. The forecasted interruptible sales profit margin contained in this Winter's CGA filing, for the twelve month period between May 1993 and April 1994, is \$585,314. This is \$60,135 less than last year's actual margin of \$645,449. Mr. Ferro noted that this sizeable decrease in profit margin can be viewed as a market response to the very low heating oil prices that are currently in existence.

Ms. McDonough's written and oral testimony focused on (i) describing the current operations and services of Granite State Gas Transmission, Inc. (Granite State), (ii) summarizing FERC Order No. 636, (iii) describing Granite State's FERC approved proposal for restructuring its services in compliance with Order No. 636 (set for November 1, 1993), and (iv) explaining the derivation of the projected supplier costs and pipeline transmission costs used by Mr. Ferro in his calculation of the CGA.

Mr. Sacco's written and oral testimony focused on two major issues: (i) describing how Northern met the gas requirements of its customers during the 1992/1993 Winter season and (ii) explaining how Northern will meet these requirements for the upcoming heating season. And in describing last year's activity, Mr. Sacco shed additional light on the net benefit of the ProGas supply. In a report dated July 29, 1993, filed with the Commission as a response to the directive in Order No. 20,829, Mr. Sacco's analysis demonstrated that the savings to Northern's ratepayers during the 1992/1993 Winter season, from the displacement of the more expensive supplemental fuels by the cheaper ProGas volumes, was on the order of \$1.5 million.

With respect to how Northern will meet the gas requirements of its customers during the upcoming Winter period, Mr. Sacco described in some detail the steps the Company had taken, in conjunction with Bay State Gas Company (Bay State) and Reed Associates (Reed), to secure a diversified gas supply portfolio. In December 1992, Northern and Bay State issued Requests for Proposal (RFP) for gas supplies for deliveries into Tennessee. The RFPs for replacement supplies on Tennessee were sent out to over 90 suppliers. Approximately 32 suppliers submitted bids and a short-list of 9 suppliers was selected. Northern and Bay State are currently in negotiation with six suppliers for replacement supplies.

Mr. Sacco's testimony also shed light on the selection process itself. Northern and Bay State evaluated the proposals submitted in response to the RFPs using four criteria: reliability and security (35%); price (30%); contract flexibility (20%); and supplier viability (15%). The percentage value after each criterion reflects the relative importance assigned to it by management and the Reed consultants.

B. Staff

Kenneth E. Yasuda, Sr., Utility Analyst, testified on behalf of Staff. Upon review of the Company filing, Staff generally concluded that (i) Northern's new gas purchasing policies are sound and reasonable, (ii) the Company is utilizing its available resources in a manner which minimizes gas costs, and (iii) Northern's proposed 1993/1994 Winter CGA of \$0.0710 per therm is just and reasonable.

In his oral testimony, Mr. Yasuda focused on four major areas: (i) Northern's gas supply methodology, (ii) an analysis of the interruptible sales profit margin, (iii) a comparison of the current \$0.0710 per therm CGA with last year's CGA credit of (\$0.0377) per therm, and (iv) key issues surrounding the ProGas supply contract.

Regarding the Company's gas supply procurement process, Mr. Yasuda stated that the selection process (to replace Tennessee's former CD-6 and Algonquin's former F-2 and F-3 volumes that made up a portion of Granite State's CD-2 contract with Northern) initiated by the Company is well thought-out and, in all likelihood, will yield a diversified and reliable gas supply portfolio. In particular, Mr. Yasuda views the use of an "outside" consulting firm, Reed Associates, to provide additional input as further strengthening the entire portfolio selection process.

With respect to the \$60,000 decline in interruptible sales profit margins, Mr. Yasuda agreed with the analysis of the Company; given the current and projected low heating oil prices, a reduction in margins seemed almost inevitable.

Mr. Yasuda noted that a complete, detailed analysis comparing the current positive CGA of \$0.0710 with last year's negative (\$0.0377) is found in Mr. Ferro's revised Exhibit JAF-17. Mr. Yasuda highlighted the major components of the almost 11 cents per therm [\$0.1087] difference in the two CGAs. Approximately 2 cents per therm [\$0.0188] can be attributed to FERC Order No. 636. This is the sum of the difference in positive demand costs [\$0.0369], negative commodity costs [(\$0.0277)], and certain positive transition costs [\$0.0096].

The difference in supplemental fuel use between the two Winter periods contributed close to 4 cents per therm [\$0.0382]. This positive difference is attributable to an anticipated increased use of supplemental fuels due to (i) an expected reduction in the availability of ProGas

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supplies (the MassPower plant has come on line) and (ii) an increase in overall load growth.

The other major contributor of the 11 cents difference is the under/over collection category, which accounted for over 2.5 cents per therm [\$0.0267].

Mr. Yasuda had several comments regarding the ProGas supply contract. First, he agreed with the Company that as far as last year's heating season is concerned, the ProGas supply did indeed help to reduce the use of costly supplemental fuels, and as such, was a net benefit to all of Northern's ratepayers.

What concerned Mr. Yasuda was the potential future risk associated with this gas supply over its remaining fourteen year contract life. In particular, if the MassPower plant were to go down during the shoulder months, then given the "must take" provisions of the contract and the relatively high commodity price associated with this gas supply during that time of year, it is clear that the ProGas supply would be a liability to Northern's ratepayers.

To balance matters, Mr. Yasuda noted that should Northern have to "take" ProGas during the dead of winter (when it would displace the very expensive supplemental fuels) or during the summer months (when its commodity price becomes very attractive), this would prove to be a boon to ratepayers.

Given the uncertainty and risk associated with ProGas, Mr. Yasuda recommended to the Commission that Northern closely monitor and report the use of this gas supply to Staff.

Lastly, Mr. Yasuda, speaking on behalf of Staff, remarked that the technical sessions conducted in this proceeding contributed greatly to the speedy and thorough review of the filing and acknowledged the cooperation of the Company in that process. Mr. Yasuda also commended the Company for its outstanding filing; it contained a tremendous amount of information without getting too detailed and helped to allow a more complete review to be made.

III. COMMISSION ANALYSIS

The Commission finds that Northern has utilized its available resources in a manner which minimizes its natural gas costs. In particular, we find the gas supply procurement process outlined by the Company reasonable and cost effective. We also find the proposed CGA rate of \$0.0710 per therm, before the adjustment for the State Franchise Tax, just and reasonable and in the public interest. Nevertheless, we would expect the Company to make a mid- course

correction should changes in spot market gas prices result in gas costs markedly different from those projected. With respect to the ProGas supply contract, we concur with Mr. Sacco's analysis of the net benefit of this gas supply during the 1992/1993 Winter period. We also agree with Staff that there are future risks and uncertainties associated with ProGas. We therefore will require Northern to closely monitor and report the use of this gas supply to Staff.

Our order will be issued accordingly.

Concurring: November 1, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that Sixth Revised Page 32, Sheet No. 1, superseding Fifth Revised Page 32 N.H.P.U.C. tariff of Northern Utilities, Inc. (Northern) - New Hampshire Division, providing for a cost of gas adjustment (CGA) of \$0.0710 per therm for the period of November 1, 1993 through April 30, 1993 is approved by this Order, said rate to become effective with all billings issued for service rendered on or after November 1, 1993; and it is

FURTHER ORDERED, that the over/under collection will accrue interest at the Prime Rate reported in the *Wall Street Journal*. The rate is to be adjusted each quarter using the rate reported on the first day of the month preceding the first month of the quarter; and it is

FURTHER ORDERED, that should the monthly reconciliation of known and projected gas costs deviate from the 10% trigger mechanism, Northern shall file a revised Cost of Gas Adjustment; and it is

FURTHER ORDERED, that given the uncertainties and risks associated with the Progas supply contract, Northern will closely monitor and report the use of this gas supply to Staff; and it is

Page 617

FURTHER ORDERED, that the above rate is to be adjusted by a factor of approximately 1% according to the utility classification in the Franchise Tax Docket DR 83-205, Order No. 16,524.

By order of the Public Utilities Commission of New Hampshire this first day of November, 1993.

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NH.PUC*11/01/93*[75260]*78 NH PUC 618*Northern Utilities, Inc. - Salem Division

[Go to End of 75260]

Re Northern Utilities, Inc. - Salem Division

DR 93-170
Order No. 21,022

78 NH PUC 618

New Hampshire Public Utilities Commission

November 1, 1993

Cost of Gas Adjustment; Report Addressing the Winter 1993/1994 Filing.

Appearances: LeBoeuf, Lamb, Leiby, and MacRae by Scott Mueller, Esquire, on behalf of Northern Utilities, Inc.; and Kenneth E. Yasuda, Sr., on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On October 1, 1993, Northern Utilities, Inc., (Northern), a public utility engaged in the business of supplying gas in the state of New Hampshire, filed with this Commission Third Revised Page 33, superseding Second Revised Page 33, N.H.P.U.C., providing for the Winter 1993/1994 Cost of Gas Adjustment (CGA) effective November 1, 1993. The filing was accompanied by the pre-filed direct testimony of Joseph A. Ferro. The proposed CGA is a charge of \$0.1655 per therm, exclusive of the New Hampshire State Franchise Tax.

An Order of Notice was issued setting the date of the hearing for October 20, 1993 at 10:00 a.m. at the Commission's office in Concord, New Hampshire.

The topics covered in the Company's direct testimony included a description of the gas supplies and costs for the Salem Division. II. *COMMISSION ANALYSIS*

Based upon the Staff review of the filing and the books and records of the Company, the Commission finds that the proposed CGA rate is just and reasonable and in the public interest. We will therefore issue an order approving the rate for effectiveness on November 1, 1993.

Our order will be issued accordingly.

Concurring: November 1, 1993

ORDER

Upon consideration of the foregoing report which is made a part thereof; it is hereby

ORDERED, that Third Revised Page 33, superseding Second Revised Page 33, N.H.P.U.C. tariff of Northern Utilities, Inc. (Northern) - Salem Division, providing for a Cost of Gas Adjustment (CGA) charge of \$0.1655 per therm for the period November 1, 1993 through April 30, 1993 is hereby approved, said rate to become effective with all billings issued for service rendered on or after November 1, 1993; and it is

FURTHER ORDERED, that the over/under collection will accrue interest at the Prime Rate reported in the *Wall Street Journal*. The rate is to be adjusted each quarter using the rate reported on the first day of the month preceding the first month of the quarter; and it is

FURTHER ORDERED, that should the monthly reconciliation of known and projected gas costs deviate from the 10 percent trigger mechanism, Northern shall file a revised Cost of Gas

Adjustment; and it is

FURTHER ORDERED, that the above rate is to be adjusted by a factor of approximately 1 percent according to the utility classification in the Franchise Tax Docket DR 83-205, Order No., 16,524.

By order of the Public Utilities Commission of New Hampshire this first day of November, 1993.

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NH.PUC*11/01/93*[75261]*78 NH PUC 619*New England Telephone & Telegraph Company

[Go to End of 75261]

Re New England Telephone & Telegraph Company

DE 93-204

Order No. 21,023

78 NH PUC 619

New Hampshire Public Utilities Commission

November 1, 1993

Order Granting in Part and Denying in Part NET's Motion for Proprietary Treatment.

BY THE COMMISSION:

ORDER

On October 20, 1993, New England Telephone & Telegraph Company (NET) filed with the New Hampshire Public Utilities Commission (Commission) a Motion for Proprietary Treatment seeking protection of Section 3 of NET's Network Expansion Plan dated September 3, 1993, which had been filed in this docket in lieu of Form E-22; and

WHEREAS, Section 3 details central office and outside plant construction projects for the period 1993 through 1996 and specifically lists the locations of fiber, optical digital loop carrier and ring architecture installations; and

WHEREAS, the above detailed information is routinely filed by other companies in Form E-22, an unprotected regulatory information form which is filed pursuant to N.H. Admin. Rules, Puc 407.05, and does not involve actual costs and terms of contracts for which NET faces immediate competition; and

WHEREAS, Section 3 also contains information identifying specific customers and/or customer locations: information which is not required by N.H. Admin. Rules, Puc 407.05 and which is competitively sensitive data; now therefore it is

ORDERED, that NET's Motion for Proprietary Treatment is granted with regard to that portion of Section 3 identifying specific customers and/or customer locations; and it is

FURTHER ORDERED, that NET's Motion for Proprietary Treatment is denied with regard to that portion of Section 3 which does not identify specific customers and/or customer locations.

By order of the Public Utilities Commission of New Hampshire this first day of November, 1993.

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NH.PUC*11/02/93*[75262]*78 NH PUC 619*Hertz Technologies of New Hampshire, Incorporated

[Go to End of 75262]

Re Hertz Technologies of New Hampshire, Incorporated

DE 93-199

Order No. 21,024

78 NH PUC 619

New Hampshire Public Utilities Commission

November 2, 1993

Order *Nisi* Approving The Addition of Hertz Technologies' Travel Card.

BY THE COMMISSION:

ORDER

On October 14, 1993, Hertz Technologies of New Hampshire, Incorporated (Hertz) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce Hertz Technologies' Travel Card; and

WHEREAS, this service is available to all Hertz network customers and offers long distance calling for \$.29 per minute for the first minute or fraction thereof and \$.029 for each additional 6 seconds or fraction thereof for calls originating or terminating to the Message Center. In addition to these rates, there is a surcharge of \$.29 for calls originating at the Message Center and terminating at any location; and

WHEREAS, Hertz requested the filing become effective on November 15, 1993; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the following tariff pages for NHPUC No. 1 are approved:

1st Revised Page 2

1st Revised Page 3

1st Revised Page 4

Original Page 37, 38, 39, 40;

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, Hertz cause an attested copy of this Order *Nisi* to be published

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in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than November 12, 1993 and is to be documented by affidavit filed with this office on or before November 29, 1993; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 29, 1993; and it is

FURTHER ORDERED, that Hertz file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective December 2, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this second day of November, 1993.

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NH.PUC*11/02/93*[75263]*78 NH PUC 620*New England Telephone Company

[Go to End of 75263]

Re New England Telephone Company

DR 93-187

Order No. 21,025

78 NH PUC 620

New Hampshire Public Utilities Commission

November 2, 1993

Order Approving Special Contract with Lockheed Sanders.

BY THE COMMISSION:

ORDER

On October 1, 1993, New England Telephone Company (NET or the Company) petitioned for Commission approval of a special contract for a digital centrex system with Lockheed Sanders Incorporated; and

WHEREAS, the costs contained in these contracts are based on the New Hampshire Intellipath Digital Centrex Service filing approved by the Commission in Docket DR 86-236, Report and Order No. 18,753, dated July 10, 1987; and

WHEREAS, the Commission will reserve judgement on whether the methodology used is the most appropriate method for determining NET's costs of service until, as required in Report and Order No. 20,082, dated March 11, 1991, the review of NET's analysis of the incremental costs of centrex service as part of its updated Incremental Cost Study (ICS) in 1993 (1993 ICS) filing is completed; and

WHEREAS, Lockheed Sanders Incorporated has available competitive substitutes for centrex service in the form of customer owned private branch exchanges; and

WHEREAS, it is likely that the service that is the subject of this special contract will fall under the heading of an emergingly competitive service which will receive more relaxed regulatory treatment and pricing flexibility; and

WHEREAS, Staff has reviewed the filing, including cost support and data responses; and

WHEREAS, upon review of the petition and the Staff recommendation, the Commission finds the proposed special contract to be in the public interest; it is therefore

ORDERED *NISI*, that New England Telephone's special contract No. 93-4 for digital centrex service with Lockheed Sanders Incorporated is approved; and it is

FURTHER ORDERED, that the rates for this contract be subject to review following the completion of the updated cost study filed in 1993; and it is

FURTHER ORDERED, that NET provide an analysis comparing the rates in this contract to the costs identified in the 1993 ICS of each component used to determine the incremental cost of centrex service, no later than 30 days after a final order is issued in docket DR 93-089; and it is

FURTHER ORDERED, that the parties are hereby noticed that the Commission will review NET's analysis of the costs identified in the 1993 ICS with the rates in this contract and, should the Commission find that the contract rates are below their incremental costs, NET stockholders will be responsible for the deficiency between the rates charged and the incremental cost, for the period during which the

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rates for this service did not recover their costs; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules PUC 203.01, the Company cause an attested copy of this Order *Nisi* to be published once in a newspaper having statewide circulation, such publication to be no later than November 5, 1993 and it is to be documented by affidavit filed with this office on or before Nov. 14, 1993; and it is FURTHER ORDERED, that

any interested party may file written comments or request an opportunity to be heard in this matter no later than Nov. 14, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective November 15, 1993, unless the Commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this second day of November, 1993.

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NH.PUC*11/02/93*[75264]*78 NH PUC 621*Pennichuck Water Works, Inc.

[Go to End of 75264]

Re Pennichuck Water Works, Inc.

DR 92-220

Order No. 21,026

78 NH PUC 621

New Hampshire Public Utilities Commission

November 2, 1993

Petition for Rate Increase; Report and Order Approving Settlement Agreement, Granting Permanent Rate Increase and Establishing Cost of Common Equity.

Appearances: Gallagher, Callahan & Gartrell by John B. Pendleton, Esq. for Pennichuck Water Works, Inc.; Ransmeier & Spellman by Dom D'Ambruso, Esq. for Anheuser-Busch Companies, Inc.; Larry Eckhaus, Esq. for Southern New Hampshire Water Company, Inc.; E. Barclay Jackson, Esq. and Eugene F. Sullivan, III, Esq. for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

I. PROCEDURAL HISTORY

On January 15, 1993, Pennichuck Water Works, Inc. (Pennichuck or the Company) petitioned the New Hampshire Public Utilities Commission (Commission) for an increase in permanent rates of \$1,960,535, to become effective on February 15, 1993. Concurrently, Pennichuck requested by petition a temporary rate increase in the amount of \$717,804 (representing an increase of 9.07%) over its current authorized level of rates. The requested increase in temporary rates was revised upward to \$726,927 when a further filing of testimony by Pennichuck witnesses was made on February 26, 1993.

On February 8, 1993, the Commission issued Order No. 20,753 suspending the permanent rate filing tariffs and establishing a prehearing conference on February 26, 1993 to address procedural matters governing the pendency of the permanent rate case. Anheuser-Busch Companies, Inc. (Anheuser-Busch) sought full intervention; Southern New Hampshire Water Company, Inc. (Southern) sought limited intervention. There were no objections to either

request.

By Order No. 20,777 (March 8, 1993) the Commission adopted the procedural schedule and granted the intervention requests. Southern, by letter dated March 16, 1993, requested clarification of its intervenor status under N.H. Admin. Rules, Puc 203.03. Southern stated it had requested intervention for the limited purpose of exploring issues concerning its Special Water Supply Contract with Pennichuck and such other issues that may arise during the proceeding which may have an effect on Southern's utility operations, but it now desired full intervenor status. At its public meeting, March 23, 1993, the Commission granted Southern full intervenor status. Southern, however, did not participate in the settlement discussions or hearings on the merits.

On March 9, 1993, the Commission heard evidence on temporary rates and on March 29, 1993, granted temporary rates at a level of 5.65% over current rates (or an increase in the revenue requirement of \$454,868), effective on a service rendered basis on or after April 1, 1993. *See Report and Order No. 20,801 (March 29, 1993).*

During June and July, 1993, Pennichuck and the Staff met three times in settlement con-

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ference, reaching settlement on all contested issues except for the appropriate cost of common equity. On August 3, 1993, the Settlement Agreement was presented to the Commission and is appended hereto as Attachment A.

On August 23 and September 1, 2, and 3, 1993, the Commission heard evidence on the appropriate cost of common equity. Briefs were filed by Pennichuck and the Staff on September 30, 1993. This report and order will address both the Settlement Agreement and the cost of common equity.

II. POSITIONS OF THE PARTIES AND STAFF

A. SETTLEMENT AGREEMENT

The Staff, Pennichuck and Anheuser-Busch agreed, *inter alia*, that the Company be allowed permanent rates at the conclusion of these proceedings based upon a rate base of \$24,721,331 and adjusted net operating income of \$1,700,554. The rate base is based upon a twelve month, thirteen point average, except for the Bon Terrain plant which, consistent with the Commission's determination in *Re Pennichuck Water Works, Inc.*, Report and Order No. 20,668 (November 16, 1992), is included on the basis of a year end rate base.

The Settlement Agreement provides for two step increases. If approved, the first step will take effect on the same date as the Order on permanent rates. It will take into account, on a year end basis, certain itemized additions to plant, set forth on Exhibit B to the Settlement Agreement, which were completed after the end of the test year up to August 1, 1993. The second step, if approved, will take into account other additions specified on Exhibit B. These additions include the former Amherst Village District, an interconnection between Bon Terrain and the Nashua core systems, meters and related improvements to the former Amherst Village District which the Company is contractually obligated to complete by early next year, relocations of mains required by the New Hampshire Department of Transportation, and all non-revenue producing capital

investments exceeding a cost of \$50,000, completed by October 1, 1994. The second step is planned to be effective on December 1, 1994. There are other related adjustments which are included in the two steps, but the foregoing describes the principal adjustments.

Staff, Pennichuck and Anheuser-Busch agreed that a fair rate of return by which Pennichuck shall be allowed an opportunity to earn shall be computed on the basis of the capital structure set forth in Exhibit A to the Settlement Agreement.

Based upon the cost of common equity of 9.46% proposed by Staff, the revenue requirement for the period that the temporary rates were in effect is as follows:

REVENUE REQUIREMENT PERMANENT RATES

Rate Base	\$24,721,331	Rate of Return	8.73%	Net Operating Income Required	2,158,172
Adjusted Net Operating Income	1,700,554	Deficiency	457,618	Tax Factor (64.69%)	
296,036	Change in Revenue Requirement	\$	753,654		

In accordance with the proposed Settlement Agreement, Pennichuck would be allowed a step increase which would be effective on the date of the Order. Adjustments for the step increase have been audited and verified by the Staff of the Commission. The calculation of the rate increase is as follows:

REVENUE REQUIREMENT STEP ADJUSTMENT EFFECTIVE NOVEMBER 1, 1993

Rate Base	\$26,712,904	Rate of Return	8.73%	Net Operating Income Required	2,332,037
Adjusted Net Operating Income	1,653,695	Deficiency	678,342	Tax Factor (64.69%)	
438,822	Change in Revenue Requirement	\$	1,117,164		

The Staff and Pennichuck further agreed to a specific restructuring of Pennichuck's general

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metered service rates (G-M) consistent with the February 19, 1993 Embedded Cost of Service Study, (Study) submitted by Pennichuck as Exhibit P-12. Consistent with the Study, the annual revenue requirement should be collected by increasing Pennichuck's current permanent rates proportionately for each customer service category, excepting the following: (a) private and municipal fire protection service which should remain at existing levels, (b) the level due from the Town of Milford pursuant to its special contract with Pennichuck, and (c) Anheuser-Busch, whose rates would be calculated in accordance with the Settlement Agreement.

Consistent with the Study, Anheuser-Busch should be responsible for 4.8% of Pennichuck's total permanent "net revenue requirement" as defined in Schedule G-2, Page 1 of 2 of the Study, and 4.8% of Pennichuck's additional revenue produced by the first step increase.

The Settlement Agreement further provides that the existing special contract between Anheuser-Busch and Pennichuck may be amended to reflect a revision of Anheuser-Busch's existing 56.5% volumetric rate to apply to the revised level of permanent rates.

The Settlement Agreement provides that Pennichuck would recover through a surcharge to be applied over a 12 month period, (a) the difference between the revenue level produced by the permanent rates authorized in these proceedings (not including the first step increase) and Pennichuck's temporary rates for service rendered between April 1, 1993 and the effective date

of the Commission's Order and (b) Pennichuck's reasonable rate case expenses approved by the Commission in these proceedings.

Finally, the Settlement Agreement provides that Pennichuck should rebate to its municipal and private fire service customers over the same twelve month period the amount by which the temporary rates paid by those customers exceeded the permanent rates, and that such amount should be added to the amount to be recouped by Pennichuck pursuant to (a) above. In addition, Pennichuck should undertake a depreciation study prior to its next filing for a permanent rate increase.

B. COST OF COMMON EQUITY

1. *Pennichuck*

Pennichuck requested a permanent return on common equity of 12.62%. Its currently allowed overall rate of return is 9.23%, and its return on common equity is 10.71%, determined by the Commission in Pennichuck's last rate proceeding, *Re Pennichuck Water Works, Inc.*, DR 91-055, Order No. 20,553 (July 31, 1992). Its actual rate of return for the thirteen-point average for the twelve months ending September 30, 1992, Pennichuck's test year, was 8.2%. Pennichuck states that this low return was primarily due to a significant decrease in pumpage and consumption as a result of the poor economic climate.

Pennichuck requested the increase in its cost of common equity in order to increase its Times Interest Earnings Ratio (TIER) coverage and thereby provide access to debt markets for funding the capital expenditures planned through 1997. Pennichuck argues that a ratio of 2.62 times is necessary and calculates a return on equity of 12.62% in order to obtain that TIER coverage.

In further support of its request for rate increase, but utilizing the Discounted Cash Flow (DCF) model, Pennichuck presented expert testimony by Henry G. Mlle, Senior Vice President of AUS Consultants. Mr. Mlle testified in support of a return on equity DCF calculation in the range of 12.05% to 12.65%, a return which would result in the requested TIER coverage. Mr. Mlle followed the standard DCF formula: $\text{Cost of Equity} = \frac{\text{Expected Dividend}}{\text{Price} + \text{Growth Rate}}$. Mr. Mlle argued that the formula's Growth Rate component, which he believed was comprised of four elements — earnings, dividends, book value and market price, should give 50% weight to market price and give an equal share of the remaining 50% weight to each of the other three elements (with all components calculated with the greatest weight on the most recent three years of data). The Company later offered to give equal weight to each of the four elements.

Mr. Mlle's calculation resulted in a return on equity of 11.02% which, Pennichuck

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argued, should be adjusted upward to account for financial risk, business risk, and issuance costs.

Pennichuck argued that the return on equity should be adjusted upward by 50 basis points in recognition of the Company's greater financial risk as compared to that of the DCF sample companies. The greater financial risk on which Pennichuck based the argument is its low equity to debt ratio, which is approximately ten points below the industry average as presented by Mr.

Mlle.

Pennichuck also argued that the return on equity should be adjusted upward by an additional 25 basis points in recognition of the Company's greater business risks. The business risks which Pennichuck cited are: (a) its substantial capital intensity as compared to that of the DCF sample companies, (b) Pennichuck's smaller size, which it argues will make responding to the financial demands of the Safe Drinking Water Act and replacing Pennichuck's aging infrastructure more difficult, (c) the large percentage of business customers relative to residential customers and (d) the recession, which caused reduced consumption.

Pennichuck argued that the return on equity should be adjusted upward by an additional 58 basis points in recognition of the cost of issuance and partial market pressure likely to be experienced.

Pennichuck also argued that the return on common equity should be adjusted upward in recognition of the difference in percentage points between the return on common equity authorized by the Commission and the actual return realized by the Company representative of Pennichuck's claim of attrition. The Company's earnings deficit, it was argued, was caused by higher operating expenses, plant investment increasing more rapidly than revenues, and decreased pumpage. The resulting return on common equity suggested was 12.67%. Thus, Pennichuck argued for several alternative rates of return and returns on common equity. Pennichuck's requested alternatives, based on a variety of different scenarios, ranged from 10.17% to 12.90%.

These alternatives were arrived at by making various adjustments to the DCF calculation performed by Staff. The adjustments, Pennichuck argued, were to correct for Staff's unrepresentative DCF sample companies, Staff's reliance on historical data in projecting growth rate, and Staff's choice of preparing a constant growth rate rather than using *Value Line's* compound growth rate.

Pennichuck also argued that its alternative rates of return on common equity are in line with equity returns currently being authorized by other state utilities commissions. Pennichuck introduced evidence that recent decisions in 39 other states have ordered rates in the 11 to 12% range and that non-New Hampshire decisions were different and usually higher than New Hampshire decisions.

2. Commission Staff

The Commission Staff argued that its DCF calculation of return on common equity produces a reasonable, reliable and just result. The comparable risk companies chosen for the sample, Staff argued, allow a return which can be equated with returns on comparable investments.

The Staff disagreed with Pennichuck's expert witness's inclusion of market price and book value as part of the growth component. The Staff argued that the growth component of the DCF formula should include historical growth rates, as well as analysts' forecasts for further growth, of dividends and earnings only. Dividends and earnings, Staff argued, should be weighted 3 to 1, reflecting investors' strong interest in utilities' dividend growth and moderate concern for earnings to assure sustainable growth.

The DCF analysis offered by Pennichuck's witness, Staff argued, incorrectly computed the

growth rate factor by including growth of stock price and book value along with dividends and earnings. That error was compounded, in Staff's opinion, by giving stock price a 50% weighting and the other three elements an equal amount of the remaining 50% weight or, alternatively, by giving all four elements equal weight. The Staff argued that only dividends and earnings should be considered, in that the market price of stock can be

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affected by factors which do not impact growth of dividends, earnings or book value. Further, Staff argued that book value should similarly be discounted because it does not add anything to the analysis that isn't already captured by considering dividends and earnings.

The Staff argued against Pennichuck's use of a target TIER coverage as a method of determining cost of equity, citing this Commission's holding in an earlier Pennichuck rate case, *Re Pennichuck Water Works, Inc.*, 70 NH PUC 850 (1985). Staff argued that using the target TIER is an unacceptable results-oriented approach which is not based upon a reasoned application of economic principles. The Staff also argued against Pennichuck's assertion of a constitutional right to a TIER coverage high enough to attract the capital necessary to its expenditure plans, analogizing that assertion to one for returns earned in speculative ventures. Because such an assertion of speculative venture earnings has been specifically denied in the Supreme Court, *Appeal of Public Service Company of New Hampshire*, 130 N.H. 748, 756 (1988) (quoting *Bluefield Co. v. Pub. Serv. Comm.*, 262 U.S. 679, 692-93 (1923)), and Pennichuck has the power to control its own debt to equity ratio, the Staff argued that approving the target TIER coverage would be improper.

The Staff argued that Pennichuck faces no increased business risk in comparison to other water companies, that financial risk is largely determined by management's choice of a capital structure, and that issuance costs were improperly included in Pennichuck's DCF calculation.

Lastly, the Staff argued that the Settlement Agreement signed by Pennichuck, Anheuser-Busch and Staff provides future rate relief for the types of revenue erosion Pennichuck has experienced and, therefore, no attrition allowance should be granted. Decreased consumption, major capital additions due to the Safe Drinking Water Act, and Pennichuck's aging infrastructure were issues addressed in the Settlement Agreement by step adjustments to rate, by pro forma adjustments to expenses, and by adjustments to test year consumption to reflect the most recent twelve months of data.

III. COMMISSION ANALYSIS

After extensive review of the Settlement Agreement and evidence and supporting briefs regarding the cost of common equity, we find the Settlement Agreement to be in the public interest. Further, we are not persuaded that the Staff erred in its use of the DCF methodology, but agree with Pennichuck that it faces some business risks greater than those faced by the sample companies contained in the Staff's sample. We will adjust the Staff's recommendation by an additional 25 basis points, as requested by Pennichuck, in light of the greater business risks facing the Company. By doing so, we will approve a cost of common equity of 9.71% and an overall rate of return of 8.81%.

Our evaluation of the cost of common equity has been done in the context of the terms of the

Settlement Agreement, focusing on the financial risks and strengths of Pennichuck as a whole, rather than evaluating any one term, including the cost of common equity, in isolation. We know that Pennichuck's ability to compete for investors is critical, but we believe that given the terms of the Settlement Agreement which we are accepting, Pennichuck presents a strong, stable and attractive opportunity for investment.

We recognize that some Commissions authorize an overall rate of return that a utility is not likely to achieve in coming years. We have taken pains in this case, in evaluating the authorized rate of return in light of the provisions of the Settlement Agreement, to protect both Pennichuck's shareholders and its ratepayers, and make it likely that Pennichuck will be able to recover its authorized rate of return.

We will address the terms of the Settlement Agreement and our adoption of a cost of common equity in detail below.

A. Settlement Agreement

The Settlement Agreement entered into between Staff, Pennichuck and Anheuser-Busch provides for several significant departures from the traditional historical test year with pro-forma adjustments to known and measurable changes in expenses normally applied

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by this Commission in the rate setting process. As we stated in *Re EnergyNorth Natural Gas, Inc.*, Report and Order No. 20,776 (March 1, 1993) "we have found that this methodology (twelve month historical test year) has resulted in just and reasonable rates..." *Id.* at 10-11. However, we also noted that this method of ratemaking was, and is, neither "statutorily nor constitutionally mandated" and that in "extraordinary" cases we would deviate from this methodology in order to fulfill our statutory mandate to ensure just and reasonable rates. *Id.*

The deviations from our standard ratemaking methodology are set forth above in the Positions of the Parties and Staff and include, among other things: (a) the inclusion of the Bon Terrain system in rate base on a year end basis, (b) two "step adjustments" designed to recover federally mandated expenditures under the Safe Drinking Water Act and adjustments for justifiable personnel expenses, and (c) the use of the Company's most current consumption figures. Although we generally discourage such deviations from our standard ratemaking methodology, we believe these deviations or adjustments were proper in light of "extraordinary" circumstances encountered by the Company in the test year and in the months following the test year.

While we approve the Settlement Agreement, we are not giving blanket approval for wage increases. By this Order we will approve the step adjustment mechanism; at the step adjustment proceeding, however, we will review the actual wages negotiated.

We will address each adjustment in the Settlement Agreement *seriatim*.

1. Bon Terrain.

In *Re Pennichuck Water Works, Inc., et. al.*, Report and Order No. 20,668 (November 16, 1992) we found that a proposed agreement between Pennichuck and Southern was in the public

interest. The agreement provided, *inter alia*, for the sale of most of Southern's assets in the Town of Amherst to Pennichuck in exchange for \$1,330,000 and the right to take certain quantities of water. As a condition of the agreement, Pennichuck required that the \$1,330,000 be included in its entirety in rate base in its next filed rate case. We accepted that condition in light of the overriding public good standard even though we knew there was a potential for short term rate subsidization. *Re Pennichuck Water Works Inc., et. al.*, at 15. The Settlement Agreement recognizes that the short term rate subsidization referred to above, due to the Bon Terrain purchase, accounts for a significant percentage of the increase in rate base (excluding the step adjustments discussed below). However, we reiterate that this is a short term situation and we believe that the benefits of having an alternate source of water for the Nashua core customers outweigh these short term costs¹⁽⁷⁶⁾.

2. Step Adjustments.

As the testimony in this case reveals, Pennichuck has made substantial investments in capital since the end of the test year which fairly may be characterized as non-revenue producing.

NH.PUC*11/02/93*[75265]*78 NH PUC 669*MCI Telecommunications Corporation of New Hampshire

[Go to End of 75265]

Re MCI Telecommunications Corporation of New Hampshire

DE 93-193

Order No. 21,027

78 NH PUC 669

New Hampshire Public Utilities Commission

November 2, 1993

Order *Nisi* Approving the Addition of 800 Access and Related Tariff Changes.

BY THE COMMISSION:

ORDER

On October 6, 1993, MCI Telecommunications Corporation of New Hampshire (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to add 800 access to the description of an offered service called Friends and Family and to make the language consistent with their interstate offering; and

WHEREAS, this filing does not change the existing rates for offered services; and

WHEREAS, MCI will provide an 800 number, and a 4-digit security code with which a customer can receive incoming domestic calls; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire

while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the following tariff pages for NHPUC No. 1 - are approved:

21st Revised Page 1

10th Revised Page 2

12th Revised Page 3.1

2nd Revised Page 25.2

1st Revised Page 58

5th Revised Page 59;

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, MCI cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than November 12, 1993 and is to be documented by affidavit filed with this office on or before November 29, 1993; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 29, 1993; and it is

FURTHER ORDERED, that MCI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective December 2, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this second day of November, 1993.

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NH.PUC*11/02/93*[75266]*78 NH PUC 669*Sprint Communications Company of New Hampshire, Inc.

[Go to End of 75266]

Re Sprint Communications Company of New Hampshire, Inc.

DE 93-194
Order No. 21,028
78 NH PUC 669

New Hampshire Public Utilities Commission

November 2, 1993

Order *Nisi* Approving the Addition of Sprint Clarity Switched Data Services.

BY THE COMMISSION:

ORDER

On October 12, 1993, Sprint Communications Company of New Hampshire, Inc. (Sprint) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce Sprint Clarity Switched Data Services; and

WHEREAS, this add-on service provides for the transport of data domestically or internationally over the Sprint Network via switched and/or dedicated access; and

WHEREAS, each call will be billed in six second increments after a 30 second minimum charge; and

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WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the following tariff pages for NHPUC No. 3 are approved:

16th Revised Page 1

Original Page 49.3

Original Page 63.6; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, Sprint cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than November 12, 1993 and is to be documented by affidavit filed with this office on or before November 29, 1993; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 29, 1993; and it is

FURTHER ORDERED, that Sprint file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective December 2, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this second day of November, 1993.

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NH.PUC*11/05/93*[75267]*78 NH PUC 670*Nuclear Emergency Planning

[Go to End of 75267]

Re Nuclear Emergency Planning

DE 93-211

Order No. 21,029

78 NH PUC 670

New Hampshire Public Utilities Commission

November 5, 1993

BY THE COMMISSION:

WHEREAS, On September 16, 1993, the New Hampshire Office of Emergency Management (NHOEM) submitted a request for an assessment against North Atlantic Energy Service Corporation (NAEC) for the estimated cost to maintain the State of New Hampshire local community Radiological Emergency Response Plans (RERP) for the Seabrook Station Nuclear Power Plant; and

WHEREAS, the request addresses the estimated annual costs associated with personnel, training, current expenses, and equipment incurred by State agencies and outside support agencies which have responsibilities with respect to the Seabrook Station RERP; and

WHEREAS, the request for State agencies is based on fiscal year 1994 expenditures and the State Fiscal Year 1994; and

WHEREAS the total requested assessment consists of two parts: (1) \$1,201,710 for Fiscal Year 1994 for State agency and outside support agency costs; and (2) the direct provision of certain equipment and/or services in support of the RERP. Also incorporated in this assessment is annual maintenance expenses in the amount of \$77,731 for local municipalities, which assessment has already been made. See *Nuclear Emergency Planning*, DE 89-200, Order No. 19,676 (January 22, 1990) (Order 19,676) and Order No. 19,757 (March 15, 1990); and

WHEREAS, the breakdown of the items to be assessed in this order are as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	<i>Class</i>	<i>Amount</i>
10	Personnel - perm.	\$ 345,400
20	Current Expenses	46,000
28	Rent	26,745
30	Equipment	22,500
40	Indirect Costs	14,000
46	Consultants	43,000

49	DPHS	255,000
50	Personnel (Temp. OT)	145,524
60	Benefits	120,180
70	In-State Travel	17,000
80	Out-of-State Travel	3,500
91	Rockingham County	47,130
94	Local Support	77,731
96	State Departments	35,000
97	Other Support Agencies	3,000
TOTAL ASSESSMENT		\$1,201,710

;and

WHEREAS, NHOEM requests that payments of the above assessment be made in monthly installments; and

WHEREAS, NHOEM has requested to be allowed to adjust monthly cash draws based on previous monthly expenditures. The rationale for the NHOEM billing mechanism is to minimize the potential for excess funds at the end of the fiscal year and,

WHEREAS, the services to be provided directly by NAEC in support of the RERP are as follows:

A) Maintenance of a contract for the provision of emergency worker thermo luminescent dosimeters and emergency worker dosimetry evaluation service. NHRERP volume 1, section 2.7.

B) Maintenance and upkeep of reception/ decontamination center equipment and support vehicles. NHRERP volume 1, section 2.1.

C) Maintenance and upkeep of state transportation staging area support equipment. NHRERP volume 1, section 2.4.

D) Maintenance and upkeep of the New Hampshire Incident Field Office facilities, Joint Telephone Information Center and Media Center. NHRERP volume 1, section 2.3 and 2.4.

E) Maintenance and upkeep of the alert and notification system for the Seabrook Emergency Planning Zone (sirens and tone alert radios). NHRERP volume 1, section 2.1.

F) Maintenance and upkeep of New Hampshire Monitoring Team equipment. NHRERP volume 1, section 2.5.

G) Provision of instructor personnel to support annual training requirements. NHRERP volume 1, section 3.3.

H) Document Control and distribution support. NHRERP volume 1, section 2.3.

I) Production and distribution of emergency public information. NHRERP volume 1, section 2.3.

J) Special needs support. NHRERP volume 1, section 2.1.

K) Maintenance and upkeep of specified equipment and supplies for local emergency operations centers. NHRERP, Volume 1, Section 2.4; and,

WHEREAS, RSA 107-B sets forth the Commission's jurisdiction over the assessment of these costs. It provides in pertinent part as follows:

107-B:1 Nuclear Emergency Response Plan.

I. The director of emergency management shall, in cooperation with affected local units of government, initiate and carry out a nuclear emergency response plan as specified in the licensing regulations of each nuclear electrical generating plant. The chairman of the public utilities commission shall assess a fee from the utility, as necessary, to pay for the cost of preparing the plan and providing the equipment and materials to implement it.

107-B:3 Assessment.

I. The cost of preparing, maintaining, and operating the nuclear planning and response program shall be assessed against each utility which has applied for a license to operate or is licensed to operate a nuclear generating facility which

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affects municipalities under RSA 107-B:1, II, in such proportions as the chairman of the public utilities commission determines to be fair and equitable. ;and

WHEREAS, NHOEM submits, and the supporting schedules support, that the above stated costs will provide the resources and personnel required by the various State agencies and outside agencies; and

WHEREAS, Pursuant to RSA 107-B:1, I have reviewed the NHOEM's request and supporting data; and

WHEREAS, I find that the budget costs contained therein relate to preparing the plan and providing equipment and materials necessary to implement it; and

WHEREAS, I also find that the direct assessment of equipment and/or services is related to preparing the RERP and providing equipment and/or services necessary to implement it. I therefore approve the assessment of \$1,201,710 for FY 1994 and the direct provision of equipment and/or services as specified above; and

WHEREAS, additionally, the NHOEM proposed billing mechanism is reasonable. Accordingly, NHOEM is authorized to require that NAEC payments of this assessment be drawn on anticipated monthly expenditures and, further, NHOEM is authorized to adjust monthly cash draws based on previous monthly expenditures; it is hereby

ORDERED, that I hereby certify that \$1,210,710 for FY 1994 for estimated annual costs associated with personnel, training, current expenses and equipment incurred by State agencies and outside support agencies plus the incorporation of local administration and training costs as previously assessed in Order 19,676, and the direct provision of equipment and/or services as specified in the foregoing report be assessed against North Atlantic Energy Service Corporation pursuant to RSA 107-B; and it is

FURTHER ORDERED, that NHOEM be authorized to require NAEC to make payments

against the total financial assessment of \$1,201,710 on a monthly basis; and it is

FURTHER ORDERED, that the payments of this assessment by NAEC be drawn on anticipated monthly expenditures; and it is

FURTHER ORDERED, that NHOEM is authorized to adjust monthly cash draws based on previous monthly expenditures; and it is

FURTHER ORDERED, that the year end balance for Fiscal Year 1993 be applied as a credit to reduce the total financial assessment; and it is

FURTHER ORDERED, that NHOEM provide the Treasurer of the State of New Hampshire with the amount of each monthly installment by the 15th day of the previous month (with an information copy to be provided to the Chairman of the New Hampshire Public Utilities Commission) so that the Treasurer may then bill NAEC in accordance with the NHOEM statement; and it is

FURTHER ORDERED, that NAEC make payment on or before the end of the same month.

By order of the Chairman of the Public Utilities Commission of New Hampshire this fifth day of November, 1993.

=====

NH.PUC*11/08/93*[75268]*78 NH PUC 672*Public Service Company of New Hampshire

[Go to End of 75268]

Re Public Service Company of New Hampshire

DR 93-162

Order No. 21,030

78 NH PUC 672

New Hampshire Public Utilities Commission

November 8, 1993

Order *Nisi* Approving Special Contract NHPUC-90 with Papertech Corporation.

BY THE COMMISSION:

ORDER

On September 15, 1993, Public Service Company of New Hampshire (PSNH) filed a request for approval of a special contract, Special Contract No. NHPUC-90, between PSNH and Papertech Corporation (Papertech), effective September 30, 1993 or upon approval by the Commission; and

WHEREAS, Papertech is a New Hampshire corporation located in West Hopkinton, New Hampshire, and a subsidiary of Texmaco, U.S.A., Inc. with its principal business engaged in the

manufacturing of paper board for use by industrial tube manufacturers; and

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WHEREAS, Special Contract No. NHPUC-90 is designed to retain electric service from Papertech for a period of ten years from the effective date of Special Contract No. NHPUC-90; AND

WHEREAS, PSNH contends Papertech would, absent this special contract, no longer remain a PSNH customer and would in PSNH's opinion cease operations in New Hampshire; and

WHEREAS, PSNH is proposing to provide discounted electric service to Papertech in the form of discounted demand charges for a four- year period as well as contribute up to \$150,000 for Energy Conservation Measures under PSNH's Energy Services Program; and

WHEREAS, Papertech agrees to certain conditions during the term of the Special Contract, such as participating under PSNH's Energy Services Agreement, investing \$1,500,000 in its West Hopkinton facility, and seeking assistance from the New Hampshire Department of Resources and Economic Development (DRED); and

WHEREAS, Papertech also agrees that PSNH will continue to be its only provider of electric service for a period of 10 years unless Papertech can demonstrate to the Commission that a legally proper and financially viable alternative provider of electricity is available and absent that alternative Papertech would cease its operations in New Hampshire; and

WHEREAS, PSNH believes Special Contract NHPUC-90 will enable Papertech to remain in New Hampshire and expand its production capacity; and

WHEREAS, PSNH is convinced that Papertech has a viable business plan provided that it is able to enhance its production line and lower operating costs of which energy costs are a significant part; and

WHEREAS, the discounted demand charges, 75% off the applicable demand charges during the first twelve months, 50% off during the second twelve months and 25% off during the final twenty-four months, are above PSNH's projected marginal capacity costs; and

WHEREAS, by retaining service to Papertech, PSNH maintains some level of contribution to the recovery of PSNH's fixed costs thereby benefiting PSNH and its other customers; and

WHEREAS, PSNH contends that this filing is consistent with its 1992 Integrated Resource Plan and is made in accordance with the Commission's established economic development policy and adheres to the Commission's "Final Checklist for Economic Development and Business Retention Discounted Rates" (Checklist) as specified in Order No. 20,882 in docket DR 91-172, the Generic Discounted Rates docket; and

WHEREAS, upon review of the filing and the Staff recommendation, the Commission finds that Special Contract NHPUC-90 meets the criteria for a discounted rate as we outlined in DR 91-172, but the Commission believes that PSNH and Papertech should and will be expected to fully pursue other appropriate forms of assistance as outlined in the Checklist; and

WHEREAS, Special Contract NHPUC-90 between Public Service Company of New Hampshire and Papertech Corporation is in the public interest; it is hereby

ORDERED *Nisi*, that Special Contract NHPUC-90 is approved as filed effective December 1, 1993; and it is

FURTHER ORDERED, that PSNH report to the Commission by December 1, 1994, the status of Papertech's pursuit of financial assistance including but not limited to the outcome of any assistance Papertech seeks from the Department of Resources and Economic Development; and it is

FURTHER ORDERED, that recovery of any monies expended by PSNH on conservation measures will be deferred to the upcoming 1994 docket on PSNH's conservation and load management programs where it may be more fully reviewed; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules, Puc 203.01, PSNH notify all persons desiring to be heard by causing an attested copy of this order to be published once in a newspaper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than November 11, 1993, and documented by affidavit filed with this office on or before November 17, 1993; and it is

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FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than November 30, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective December 1, 1993, unless the Commission provides otherwise in a Supplemental Order issued prior thereto. By order of the New Hampshire Public Utilities Commission this eighth day of November, 1993.

=====

NH.PUC*11/08/93*[75269]*78 NH PUC 674*GTE NH

[Go to End of 75269]

Re GTE NH

Additional respondent: GTE Maine

DR 89-010
Order No. 21,031
78 NH PUC 674

New Hampshire Public Utilities Commission

November 8, 1993

Order Addressing Compliance Filing and Company's Inability to Bill Toll Rates in One Second Increments.

BY THE COMMISSION:

ORDER

On January 13, 1992, New England Telephone and Telegraph Company (NET) filed tariff pages in compliance with Order No. 20,082 dated March 11, 1991 in docket DR 89-010.

WHEREAS, at that time, all other local exchange carriers (LECs) concurred in NET's toll tariff and were required to file revised tariff pages to include the changes resulting from Order No. 20,082; and

WHEREAS, Contel of NH, Inc., d/b/a GTE NH and Contel of Maine, Inc., d/b/a GTE ME (collectively GTE) filed revised tariff pages that did not concur with NET's tariff and were therefore, not in compliance with Order No. 20,082; and

WHEREAS, GTE indicated it was unable to bill toll calls in one second increments as NET's revised rates required and could only bill toll calls in one minute increments; and

WHEREAS, GTE has informed the Commission Staff that it has billed its toll customers the NET toll rates that were in effect prior to the outcome of DR 89-010, that include per minute rates for the first minute that are higher than the rate for additional minutes, are mileage sensitive and are billed in one minute increments, since January 20, 1992; and

WHEREAS, GTE has informed the Commission Staff that it has the capability to bill toll usage in six second increments; and

WHEREAS, GTE provided the Commission Staff an analysis which indicates the toll rates GTE customers would pay using six second timing, on average, are approximately 10 percent greater than the toll rates that would be paid if GTE were able to comply with the new rates and bill for toll use in one second increments; and

WHEREAS, GTE is currently in the process of selling its franchise in New Hampshire; it is hereby

ORDERED, that the six second timing alternative proposed by GTE is not acceptable because customers, on average, will pay approximately 10 percent more than customers would be charged if GTE were in compliance with Order No. 20,082; and it is

FURTHER ORDERED, that GTE or its successors provide the Commission Staff no later than November 22, 1993 an analysis similar in detail to the analysis previously provided (which showed the approximate 10 percent difference between six second and one second timing) comparing actual rates charged to customers since January 20, 1992 to the currently approved NET rates using one second timing that should have been charged if GTE were able to comply; and it is

FURTHER ORDERED, that GTE or its successors submit a proposal to the Commission, no later than November 22, 1993, recommending a solution to this problem, including a recommendation on how to compensate customers who have been overcharged for toll calls since January 20, 1992.

By order of the New Hampshire Public Utilities Commission this eighth day of November, 1993.

=====

NH.PUC*11/09/93*[75270]*78 NH PUC 675*New England Telephone

[Go to End of 75270]

Re New England Telephone

DR 93-159

Order No. 21,032

78 NH PUC 675

New Hampshire Public Utilities Commission

November 9, 1993

Order Establishing a Hearing to Address Order *Nisi* No. 20,989.

BY THE COMMISSION:

ORDER

On September 1, 1993, New England Telephone (NET) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce three new Optional Calling Plans (OCPs) targeted toward the high and medium volume toll customer; and

WHEREAS, the proposed OCPs included Customized NETSAVER Plan, Business Package and Business Package Plus; and

WHEREAS, the Business Package and Business Package Plus plans were approved nisi by Order No. 20,979 (September 27, 1993) and the Commission sought input from interested parties as to whether the Customized NETSAVER Plan complied with the terms of the Modified Stipulation, Attachment 4, approved by Order No. 20,916 (July 29, 1993); and

WHEREAS, the Commission received joint comments from AT&T, MCI, Sprint and Long Distance North who argued that Customized NETSAVER does not meet the price test established by the Modified Stipulation Agreement; and

WHEREAS, the Commission received separate comments from NET and from the Commission Staff who each argued that Customized NETSAVER complied with the terms of the Modified Stipulation Agreement; and

WHEREAS, the Commission approved *nisi* the Customized NETSAVER plan by Order No. 20,989 (October 12, 1993) for effect November 11, 1993; and

WHEREAS, on November 5, 1993 AT&T, MCI, Sprint and Long Distance North filed with the Commission a joint motion to intervene in docket DR 93-159 which was granted by the Commission at its meeting on November 8, 1993; and

WHEREAS, on November 5, 1993, AT&T also filed a Request for a Motion to Suspend and Reject NET's tariff filing dated September 1, 1993 and a request for a one day hearing on behalf

of AT&T, MCI, Sprint and Long Distance North; and

WHEREAS, the Commission has reviewed the requests for a one day hearing in this docket; it is therefore

ORDERED, a hearing be held on December 10, 1993 and it is

FURTHER ORDERED, that the following tariff pages

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC No. 75 Part A Section 9 - Eighth Revision of Table of
Contents Page 2
Original Pages 74 through 76
Section 10 - Original Page 13

shall be suspended pending the outcome of the hearing.

By order of the New Hampshire Public Utilities Commission this ninth day of November, 1993.

=====

NH.PUC*11/10/93*[75271]*78 NH PUC 675*AT&T Communications of New Hampshire, Inc.

[Go to End of 75271]

1.Ax

Re AT&T Communications of New Hampshire, Inc.

DE 93-206
Order No. 21,033
78 NH PUC 675

New Hampshire Public Utilities Commission

November 10, 1993

Order *Nisi* Approving a Holiday Discount Rate Schedule.

BY THE COMMISSION:

ORDER

On October 26, 1993, AT&T Communications of New Hampshire, Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce a Holiday Rate schedule; and

WHEREAS, this schedule will encompass ten separate holidays which provide for an addition to the present Custom Network Service listing of five holidays; and

WHEREAS, AT&T specified the terms, conditions and Holidays in its F.C.C. No. 2 Tariff filing; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while

allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the following tariff pages for NHPUC No. 1 - Custom Network Services are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Table of Contents	3rd Revised Page 15
Section 13	2nd Revised Page 4
	1st Revised Page 5;

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than November 19, 1993 and is to be documented by affidavit filed with this office on or before December 6, 1993; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than December 6, 1993; and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective December 10, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this tenth day of November, 1993.

=====

NH.PUC*11/10/93*[75272]*78 NH PUC 676*AT&T Communications of New Hampshire Inc.

[Go to End of 75272]

Re AT&T Communications of New Hampshire Inc.

DE 93-220

Order No. 21,034

78 NH PUC 676

New Hampshire Public Utilities Commission

November 10, 1993

Order *Nisi* Approving Restructure and Reprice of AT&T Plan K and the Combined Outward and Inward Calling Discount Option Offered with CustomNet, and Introduction of New Promotional Offerings.

BY THE COMMISSION:

ORDER

On November 5, 1993 AT&T Communications of New Hampshire Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to restructure and reprice 800 Plan K and the combined Outward and Inward Calling Discount Options offered under CustomNet. In addition, administrative revisions were proposed to the Inward Calling Option associated with CustomNet and promotional offerings were introduced for 800 READYLINE, 800 READYLINE on an access line, 800 Gold-Switched and the switched access option of UniPlan Service.

WHEREAS, the revisions to the 800 Plan K service change Option A from an hourly rate to a per minute rate; and

WHEREAS, the revisions to the combined Outward and Inward Calling Discount Option of the CustomNet service introduce two rate schedules; Plan A with a 30 second initial period and one second additional period, and Plan B at a rate per minute; and

WHEREAS, the Promotional offering waives the 30 second Minimum Average Time Requirement associated with customers' intrastate calls for 800 READYLINE, 800 READYLINE on an access line, 800 Gold Service-Switched and the switched access option of UniPlan Service; and

WHEREAS, AT&T proposed the filing become effective December 6, 1993; and

WHEREAS, the proposed tariffs expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

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WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than December 6, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that

portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than November 19, 1993 and is to be documented by affidavit filed with this office on or before December 6, 1993; and it is

FURTHER ORDERED *NISI*, that the following tariff pages of AT&T Tariff PUC No. 1 - CUSTOM NETWORK SERVICES, are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Table of Contents:	4th Revised Page 7
Section 5:	2nd Revised Page 10
Section 10:	2nd Revised Page 4
	1st Revised Page 5
Section 14:	3rd Revised Page 8
	Original Page 9

and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is FURTHER ORDERED, that this Order *Nisi* will be effective December 8, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this tenth day of November, 1993.

=====

NH.PUC*11/12/93*[75273]*78 NH PUC 677*New England Telephone & Telegraph Company

[Go to End of 75273]

Re New England Telephone & Telegraph Company

DF 93-213

Order No. 21,035

78 NH PUC 677

New Hampshire Public Utilities Commission

November 12, 1993

Order Authorizing Increase in Shelf Authority.

BY THE COMMISSION:

ORDER

WHEREAS, New England Telephone & Telegraph Company (New England Telephone) filed an application on October 27, 1993 with the Commission requesting the authority to increase its shelf authority to issue debt from its present outstanding level of \$50M to \$500M, to request that the terms in NHPUC Order No. 20,820 be amended to permit conversion of short

term borrowing to long term debt, and to request approval for amortization of the call premiums associated with the refinance issues over the life of the replacement issues; and

WHEREAS, the total amount of debt securities to be issued under this application will not exceed \$500 million; and

WHEREAS, New England Telephone has requested the terms and conditions specified in NHPUC Order No. 20,820 be amended to permit New England Telephone to take advantage of current low long term debt rates by converting short term borrowings to long debt; and

WHEREAS, the proceeds from these debt securities will be applied to refinancing higher coupon debt and convert short term borrowings to long term debt; and

WHEREAS, New England Telephone has requested expeditious approval of the proposal; and

WHEREAS, Order No. 20,820 referenced New England Telephone's position that over the next few years capital markets might provide financially advantageous opportunities to exercise possible refinancing of existing debenture issues, with newly issued debt securities to be offered at a lower rate of interest; and

WHEREAS, New England Telephone's embedded cost of debt and its overall cost of capital would thus be reduced; and

WHEREAS, this Commission finds that the issue and sale of the debt obligations upon

Page 677

the proposed terms will be consistent with the public good; it is hereby

ORDERED, that New England Telephone, be and hereby is, authorized to issue and sell debt securities not to exceed \$500 million and amortize the call premiums associated with the refinanced issues over the life of the replacement issues; and it is

FURTHER ORDERED, that New England Telephone forward a report to the Commission on any debt issuances or equity infusions within thirty days of receipt of the proceeds, the notice will provide the type of securities, precise maturity date, purchase price, rate of interest and cost to the New England Telephone per annum with the associated premiums and issuance costs; and it is

FURTHER ORDERED, that New England Telephone be and hereby is authorized under RSA 369:1 to borrow up to \$500 million, evidenced by notes or other evidences of indebtedness, and to enter into agreements reflecting such indebtedness; and it is

FURTHER ORDERED, that on or about January first and July first in each year, New England Telephone shall file with this Commission a detailed statement, duly sworn by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of such financing, until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twelfth day of November, 1993.

=====

NH.PUC*11/12/93*[75274]*78 NH PUC 678*North Country Water Supply, Inc.

[Go to End of 75274]

Re North Country Water Supply, Inc.

DE 92-076

Order No. 21,036

78 NH PUC 678

New Hampshire Public Utilities Commission

November 12, 1993

Report and Order Addressing Rate Base, Permanent Rates, Rate Case Expenses and Temporary Rate Recovery.

BY THE COMMISSION:

REPORT

I. Procedural History

The previous procedural history of this docket is set forth in extensive detail in Report and Order No. 20,957 dated September 9, 1993. In that Order, the Commission ordered the stockholder of North Country Water Supply, Inc. ("the Company"), Mr. Stanley Oliver, to produce within 30 days of the date of the Order the invoices for all upgrades he made to the water system at Bow Lake Estates subsequent to the Company's acquisition of it. On September 27, 1993 the Company forwarded invoices representing \$14,299.75 of capital investment, along with a request for a determination of the rate of return which was not detailed in Order No. 20,957. On October 1, 1993 Staff requested the Company to indicate its preference for its rate base items, as the Commission in Order No. 20,957 had indicated that the Company could limit its rate base to \$12,000 if it chose to do so. Staff also requested the Company to state its intention as to the potential recovery of rate case expenses for this proceeding. On October 12, 1993 the Company responded that it wished to recover only \$12,000 of equipment in its rate base, and included a request for the recovery of \$3,245.81 in rate case expenses. Staff subsequently prepared a series of schedules based on Order No. 20,957 which outline a revenue requirement of \$11,774; a rate base, including plant of \$12,000, unamortized franchise expenses of \$1,282, and cash working capital of \$979, of \$14,260; and an overall rate of return of 5.61%.

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II. Positions of the Company and Staff

A. Commission Staff

The Staff has recommended that the Company recover its requested rate case expenses of

\$3,245.81 over 36 months at \$3.01 per customer per month. The Staff has also recommended that recovery of the difference between the temporary rate and the permanent rate, an amount of \$85.88 per customer calculated from November 23, 1992 to November 23, 1993 also be recovered over a 36 month period at \$2.39 per customer per month.

B. North Country Water Supply, Inc.

The Company objects to the Staff's recommendation as to recovery of the difference between the temporary rate and the permanent rate. The Company has requested that the full difference of \$85.88 per customer be allowed to be billed to customers in a lump sum. The Company has indicated that it would be willing to work with any customers who may be unable to make this payment in full.

III. *Commission Analysis*

The issues remaining outstanding from Order No. 20,957 are the matter of the Company's rate base items; the rate of return; rate case expenses; and recovery of temporary rate.

As per our Order No. 20,957 the Company has the option of limiting its plant in rate base to \$12,000 if it so chooses. It has chosen to do so, and we accept the total rate base of \$14,260. We note that the schedules attached to this Report and Order provide that the Company will carry \$29,983 of fixed assets on its books, with an amount of \$17,983 as Contributions in Aid of Construction. It is expected that the Company will set up its asset records accordingly.

Consistent with our previous Order, the \$12,000 note (\$10,800 remaining balance) to Meredith Tilton is included in the capital structure as zero cost debt. The Staff's recommended cost of equity of 9.36%, as determined using DCF methodology, is accepted in accordance with our long-standing acceptance of that methodology. We therefore accept the Staff's recommended overall rate of return of 5.61%.

The rate case expense surcharge of \$3.01 per customer per month for 36 months appears reasonable and we will accept it.

The recovery of temporary rates at \$2.39 per customer per month for 36 months also appears reasonable and we will accept it. In light of the size of the increase (28%) from the temporary rate, and the monthly billing frequency granted to the Company, asking customers to pay this full difference in a lump sum would be burdensome. We prefer that temporary rate surcharges be recovered over some period of time to allow customers the ability to budget for such expenses.

Our order will issue accordingly.

Concurring: November 12, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the Company's rate base is \$14,260 including \$12,000 in plant as detailed in the attached schedules, with a resulting revenue requirement of \$11,774 collected on a flat rate basis of \$32.71 per month; and it is

FURTHER ORDERED, that the overall rate of return for the Company is 5.61%; and it is

FURTHER ORDERED, that the Company recover its rate case expenses of \$3,245.81 in a

monthly surcharge of \$3.01 per customer for 36 months; and it is

FURTHER ORDERED, that the Company recover the difference in temporary rate in a monthly surcharge of \$2.39 per customer for 36 months.

By order of the Public Utilities Commission of New Hampshire this 12th day of November, 1993.

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[TABLE TO BE SHOT] [TABLE A]

MAN 11-8-93NORTH COUNTRY WATER SUPPLY, INC.ATTACHMENT 1 NCWS,
REVREQREVENUE REQUIREMENT

RATE BASE (ATTACHMENT 2)14,260

RATE OF RETURN (ATT. 1, SCH. 1)5.61% ----- OPERATING INCOME
REQUIREMENT800

OPERATING INCOME (ATTACHMENT 3)(1,291) ----- REVENUE DEFICIENCY
BEFORE TAXES2,090

TAX EFFECT (NHBPT ONLY; OPERATING INCOME REQUIREMENT X 8%)64
----- REVENUE DEFICIENCY2,154

CURRENT REVENUE (ATTACHMENT 3)9,620 ----- REVENUE
REQUIREMENT11,774 ===== MAN 11-8-93NORTH COUNTRY WATER SUPPLY,
INC.ATTACHMENT 1 NCWS, ROROVERALL RATE OF RETURNSCHEDULE 1

AMOUNT COMPONENT RATIOCOMPONENT COST RATEWEIGHTED AVERAGE
COST RATECOMMON STOCK16,14259.91%9.36%5.61%LONG TERM
DEBT10,80040.09%0.00%0.00%SHORT TERM
DEBT00.00%0.00%0.00%TOTAL26,942100.00%5.61%

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[TABLE TO BE SHOT] [TABLE B]

MAN 11-8-93NORTH COUNTRY WATER SUPPLY, INC.ATTACHMENT 2 NCWS,
RBRATE BASE

PLANT IN SERVICE (ATT. 2, SCH. 1)29,983 LESS: CONSTRUCTION WORK IN
PROGRESS0 ----- TOTAL PLANT IN SERVICE29,983

LESS:ACCUM. DEPRECIATION0 ACCUM. AMORTIZATION0 CONTRIBUTIONS IN
AID OF CONSTRUCTION (ATT. 2, SCH. 1)17,983 ----- NET PLANT IN
SERVICE12,000

ADD WORKING CAPITAL:

TOTAL O&m EXPENSE (ATTACHMENT 3)7,939 TIMES 12.33% (45 DAYS)12.33%
----- CASH WORKING CAPITAL979 MATERIALS AND SUPPLIES0 UNAMORTIZED
FRANCHISE COSTS (ATT. 2, SCH. 2)1,282 ----- RATE BASE14,260 =====

[TABLE TO BE SHOT] [TABLE C]

MAN 11-8-93NORTH COUNTRY WATER SUPPLY, INC.ATTACHMENT 2 NCWS,
FIXASTFIXED ASSET DEPRECIATION SCHEDULESCHEDULE 1 AND AMORTIZATION
OF CIAC

DEPRECIATIONORIGINAL COSTDEPR RATEYRLY DEPR
AMOUNTMAINS1,5802.0%32SERVICES4132.5%10TANKS8,0132.2%178PUMPHOUSE6,2
872.5%157LAND13,690N/A0TOTALS29,983377

LESS: AMORTIZATION OF CONTRIBUTIONS IN AID OF CONSTRUCTION

COST AMORT. RATE YEARLY AMORT
AMOUNTMAINS1,5802.0%32SERVICES4132.5%10PUMPHOUSE2,3002.5%58LAND13,69
0N/A0TOTALS17,98399NET PLANT IN SERVICE12,000278 MAN 11-8-93NORTH
COUNTRY WATER SUPPLY, INC.ATTACHMENT 2 NCWS,
FRAN COSTSAMORTIZATION OF FRANCHISE COSTSSCHEDULE 2

PUC FRANCHISE COSTS: PUBLICATION OF ORDER OF NOTICE 63 6/9 HEARING
TRANSCRIPT193 10/1 HEARING TRANSCRIPT228 LEGAL EXPENSES OF SYSTEM
ACQUISITION865 ----- TOTAL FRANCHISE COSTS1,349 ----- DIVIDED BY 20
YEAR AMORTIZATION67 ===== UNAMORTIZED FRANCHISE COSTS1,282
=====

[TABLE TO BE SHOT] [TABLE D]

MAN 11-8-93NORTH COUNTRY WATER SUPPLY, INC.ATTACHMENT 3 NCWS,
INCSTOPERATING INCOME STATEMENT

PROPOSED ----- STAFFPROFORMATEST YEARREVENUETEST
YEAR TESTIMONYPG REFADJUSTPROFORMAPG REFDEFICIENCYPROFORMA
----- OPERATING
REVENUES -----

REVENUES9,62009,620ATT.12,15411,774
----- TOTAL
REVENUES9,62009,6202,15411,774

OPERATING EXPENSES -----
PRODUCTION5,041ATT.3-16505,691 5,691 CUSTOMER
ACCTG. 223 223 223 SALES/NEW BUS. 0 0 0
ADMIN/GENERAL1,677ATT.3-13482,025 2,025
----- TOTAL O&M

EXPENSES6,9419987,939 7,939

TAXES ----- FEDERAL 0 0 0 PROPERTY 2,283 ATT.3-12442,527 2,527
 STATE BUSINESS
 PROFIT 14(14) 0 ATT.1 64 64 OTHER 100 100 100
 NET
 DEPRECIATION 42 ATT.3-1236 278 278 AMORTIZATION-
 FRAN. 67 67 67 -----
 9,447 1,234 10,911 64 10,975
 OTHER INCOME 0 0 0 ----- NET
 OPERATING
 INC. 1731,234(1,291)2,090 800
 =====

[TABLE TO BE SHOT] [TABLE E]

MAN 11-8-93 NORTH COUNTRY WATER SUPPLY, INC. ATTACHMENT 3 NCWS,
 EXP PROFORMA EXPENSE ADJUSTMENT SCHEDULE 1

PRODUCTION EXPENSES:

RE-ADD MAINTENANCE EXPENSE AS AGREED AT HEARING 500

RE-ADD DES PERMIT FEE AS AGREED AT HEARING 150 -----

PROFORMA ADJUSTMENT 650 ===== ADMINISTRATIVE/GENERAL EXPENSES:

UPDATE INSURANCE EXPENSE TO ACTUAL 324

ALLOWANCE FOR FAXING TEST RESULTS 24 -----

PROFORMA ADJUSTMENT 348 ===== PROPERTY TAXES:

UPDATED (1992) PROPERTY TAX 2,527

TAX PREVIOUSLY ALLOWED FOR 2,283 -----

PROFORMA ADJUSTMENT 244 ===== DEPRECIATION EXPENSE:

DEPREC. EXPENSE NET OF AMORTIZATION (ATT. 2-1) 278

AMOUNT PREVIOUSLY ALLOWED FOR 42 -----

PROFORMA ADJUSTMENT 236 =====

[TABLE TO BE SHOT] [TABLE F]

MAN 11-8-93 NORTH COUNTRY WATER SUPPLY, INC. ATTACHMENT 4 NCWS,
 RATE RATE CALCULATION

REVENUE REQUIREMENT (ATTACHMENT 1)11,774

DIVIDED BY: NUMBER OF CUSTOMERS30 ----- ANNUAL RATE392.48 -----
MONTHLY RATE32.71 =====

TEMPORARY RATE RECOUPMENT - FROM 11/23/92 TO 11/23/93: (ASSUMES NEW
PERMANENT RATE IS BILLED 12/23/93 FOR PRIOR MONTH)

PERMANENT RATE (ANNUAL)392.48 TEMPORARY RATE (ANNUAL)306.60 -----
AMOUNT PER CUSTOMER85.88 ----- DIVIDED BY 36 MONTH RECOVERY
PERIOD:36 ----- MONTHLY SURCHARGE2.39 =====

RATE CASE EXPENSE RECOVERY:

AMOUNT TO BE RECOVERED3,245.81 NUMBER OF CUSTOMERS30 -----
AMOUNT PER CUSTOMER108.19 ----- DIVIDED BY 36 MONTH RECOVERY
PERIOD:36 ----- MONTHLY SURCHARGE3.01
=====

NH.PUC*11/18/93*[75275]*78 NH PUC 686*Public Service Company of New Hampshire

[Go to End of 75275]

Re Public Service Company of New Hampshire

Additional respondents: Small Power Producers

DR 93-179
Order No. 21,037
78 NH PUC 686

New Hampshire Public Utilities Commission

November 18, 1993

Negotiations Regarding Long Term Rate Orders; Report and Order Approving Limited
Procedural Schedule, Granting Intervention and Addressing Scope of Issues.

Appearances: Rath, Young, Pignatelli and Oyer by M. Curtis Whittaker, Esq. and Gerald Eaton,
Esq. for Public Service Company of New Hampshire; Castaldo and Malmberg by David
Marshall, Esq. for New Hampshire Timberland Owners Association; David Harrigan, Esq. for
Society for the Protection of New Hampshire Forests; D. Dickenson Henry, Jr. for Audubon
Society of New Hampshire; Armond Cohen, Esq. for Conservation Law Foundation; Broderick
and Dean by Mark Dean Esq. for New Hampshire Electric Cooperative, Inc.; Backus, Meyer and
Solomon by Robert Backus, Esq. for Campaign for Ratepayers Rights; Kenneth Colburn for
Business and Industry Association; Richard Walker for Town of Springfield, New Hampshire;
Donald Ferren for Southern New Hampshire Resource Conservation and Development Area;
Michael B. Jenish for PREMCO, Inc.; Robert Berti for North Country Procurement, Inc.; Brooks

McCandlish for Society of American Foresters, Granite State Division; Michael Lambert for Northeast Forest Users Coalition; James Anderson, Esq. for Office of Consumer Advocate; Amy L. Ignatius, Esq. for the Staff of the New Hampshire Public Utilities Commission

BY THE COMMISSION:

I. PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission) issued on October 15, 1993 an order of notice initiating a docket to consider the status of negotiations between Public Service Company of New Hampshire (PSNH) and thirteen small power producers. The docket is the result of a provision within the Rate Agreement between PSNH and Northeast Utilities, as defined in RSA 362-C:2 I, and as accepted by the Commission in DR 89-244, *Re Northeast Utilities/ Public Service Company of New Hampshire*, 114 PUR 4th 385 (1990), under which Northeast Utilities is required to use its best efforts to renegotiate the rates of the following thirteen small power producers: Briar Hydro/Essex Hydro, Errol Dam, Greggs Falls, Pembroke Hydro, Pennacook Upper Falls (the five hydropower SPPs), Alexandria Power, Bio-Energy Corporation, Bridgewater Steam Power, TIMCO, Hemphill Power and Light, Bethlehem Pinetree Power, Tamworth Pinetree Power, Whitefield Power (the eight woodburning SPPs) (collectively the SPPs).

In Docket DR 93-023, the Commission set a deadline of September 1, 1993, for the parties to conclude or abandon negotiations. *In Re Public Service Company of New Hampshire*, Order No. 20,929 (August 16, 1993). On August 25, 1993, PSNH notified the Commission that substantial progress had been made but that it needed additional time to complete negotiations. The Commission, in response, granted an extension until October 1, 1993.

On October 1, 1993, PSNH filed a status report on the SPP negotiations. PSNH stated that it had reached an agreement in principle with the five hydropower SPPs and four of the eight woodburning SPPs.

The order of notice called for a hearing on November 3, 1993, to consider implementing temporary rates, establish a procedural schedule for investigation and final review of the proposed settlements, consider a review process regarding the prudence of PSNH's efforts toward settlement and determine a course of action regarding the non-settling SPPs.

II. ISSUES ADDRESSED AT NOVEMBER 3, 1993 HEARING

A. *Intervention*

At the hearing on Nov 3, 1993, the Commission granted the following requests for intervention: New Hampshire Timberland Owners Association; Society for the Protection of New Hampshire Forests; Audubon Society

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of New Hampshire; New Hampshire Electric Cooperative, Inc.; Campaign for Ratepayers Rights; Conservation Law Foundation; Business and Industry Association; Town of Springfield, New Hampshire; Northeast Forest Users Coalition; Southern New Hampshire Resource Conservation and Development Area; PREMCO, Inc.; North Country Procurement, Inc.; and the

Society of American Foresters, Granite State Division.

The Commission encouraged parties to group their interests and where possible designate a primary spokesperson. Also present was Howard Moffett, Esq. on behalf of the five hydropower producers. Representative Beverly Rodeschin did not seek intervention but wanted to be kept informed of the case by means of the service list.

B. Scope of Docket

The Commission asked that the parties and Staff consider the appropriate structure of this docket, that is, should it involve the five hydropower SPPs and the eight woodburning SPPs, distinguish between hydropower and woodburning SPPs, or distinguish between woodburning SPPs which are in negotiations from those which are not. The parties and Staff agreed that comments would be filed recommending the number and structure of dockets.

Also to be addressed in the comments will be recommendations on issues which should or should not be part of the Commission's consideration in the docket. And finally, the parties and Staff may comment on whether temporary rates are appropriate and if so, at what level and from what effective date. It was agreed that PSNH would make an initial filing of its comments on scope of dockets and issues and include as much detail as possible on its negotiations with the five hydropower SPPs and the eight woodburning. All other parties and the Staff could then respond to PSNH's initial comments. Intervenors expressed a concern that their response to PSNH's initial comments could only be as detailed as PSNH's information allowed, and that if after the first round of comments PSNH were to file more detailed information regarding negotiations with the SPPs, they wanted the opportunity to further address the Commission.

C. Procedural Schedule

The following limited procedural schedule was agreed to:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

PSNH Initial Comments on Scope of Docket and Details of Negotiations	11/12/93
Parties and Staff's Response to PSNH's Initial Comments	11/24/93
Final Agreements with Hydropower and Woodburning Small Power Producers	12/8/93
Supporting Testimony	12/22/93

The parties and Staff agreed that they would develop a full procedural schedule after the Commission's determination on the scope of the docket. Further, the parties and Staff stressed to the Commission the need for a chance to amend their comments on PSNH's initial scoping proposal if, after review of the final agreements on December 12, 1993, the issues are different from those that were apparent on the basis of PSNH's November 12, 1993 proposal.

D. Confidentiality

There were no requests for confidential treatment filed at the time of the November 3, 1993 hearing.

III. COMMISSION ANALYSIS

We appreciate the parties and Staff's efforts to work out a coordinated schedule and scoping of issues in what is clearly a docket in which there is no consensus. In order to make the proceeding more manageable and thereby to reduce costs of litigation, we encourage the parties to group their interests and ask that if possible, they designate spokespersons for each group, and operate through their spokesperson to the extent possible.

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We find the proposed limited procedural schedule to be fair and reasonable and will accept it as proposed. We agree with the intervenors that should the final agreements filed on December 8, 1993 be different from those suggested in earlier filings, or if their ramifications only become apparent upon filing of the full agreements, the intervenors, Staff and PSNH should have an opportunity to address us once again regarding the scope of the proceedings.

Finally, we will address issues of confidentiality as they arise, rather than in the abstract prior to any requests for confidential treatment. We will review any requests for confidentiality in light of RSA 91-A, the Right to Know Law, with a presumption that materials filed at the Commission should be available to the public unless a party can demonstrate why such material falls within the exemptions from public disclosure delineated in RSA 91-A:5.

Our order will issue accordingly.

Concurring: November 18, 1993

ORDER

Based on the foregoing report which is made a part hereof; it is hereby

ORDERED, the intervention requests of New Hampshire Timberland Owners Association, Society for the Protection of New Hampshire Forests, Audubon Society of New Hampshire, Conservation Law Foundation, New Hampshire Electric Cooperative, Inc., Campaign for Ratepayers Rights, Business and Industry Association, Town of Springfield, New Hampshire, Southern New Hampshire Resource Conservation and Development Area; PREMCO, Inc., North Country Procurement, Inc., Society of American Foresters - Granite State Division, and Northeast Forest Users Coalition are hereby granted; and it is

FURTHER ORDERED, that parties group their interests and designate a spokesperson to the extent possible; and it is

FURTHER ORDERED, that the procedural schedule delineated in the report appears reasonable and will be approved; and it is

FURTHER ORDERED, that confidentiality requests shall be considered on a case by case basis, in light of RSA 91-A.

By order of the New Hampshire Public Utilities Commission this eighteenth day of November, 1993.

=====

NH.PUC*11/22/93*[75276]*78 NH PUC 688*New Hampshire Electric Cooperative, Inc.

[Go to End of 75276]

Re New Hampshire Electric Cooperative, Inc.

DR 93-145
Order No. 21,038
78 NH PUC 688

New Hampshire Public Utilities Commission

November 22, 1993

Approval of 1993-1994 Winter Interruptible Load Program.

Appearances: Broderick and Dean by Mark Dean, Esquire for New Hampshire Electric Cooperative; Office of Consumer Advocate by Kenneth E. Traum and Thomas Lyle on behalf of Residential Ratepayers; and Eugene F. Sullivan, III, Esquire on behalf of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. *Procedural History*

New Hampshire Electric Cooperative, Inc. (NHEC) filed on July 30, 1993, in accordance with Commission Order No. 20,694 in DR 92-187, testimony and exhibits supporting proposed changes to its tariff, N.H.P.U.C. No. 15 Electricity, which are designed to offer eligible member customers service under NHEC's 1993-1994 Winter Interruptible Program.

A duly noticed Prehearing Conference was held on September 2, 1993, at which time NHEC, the Staff of the Commission and the Office of Consumer Advocate (OCA), stipulated to a procedural schedule that was later approved by the Commission. See N.H.P.U.C. Order No. 20,951 issued September 8, 1993. A hearing on the merits was held October 27, 1993. No parties filed for intervention in this proceeding.

II. POSITIONS OF THE PARTIES

A. *New Hampshire Electric Cooperative*

NHEC's witness, Mr. Dennis R. Eicher, testified that the 1993-1994 Winter Interruptible program is similar to the one approved by the Commission last year in DR 92-187. The program is directed primarily toward customers who have the capability to interrupt a portion of their load after notification from NHEC. The program is targeted to the ski industry because NHEC, a strongly winter peaking utility, believes the greatest benefits are obtained by interrupting designated ski area load. An interruptible program for smaller year-round interruptible customers is also offered by NHEC. The program is designed to reduce the delivery point peak loads served by Public Service Company of New Hampshire (PSNH), NHEC's primary wholesale power supplier. PSNH bills NHEC in accordance with the *Partial Requirements Resale Service*

Agreement.

NHEC estimates that its wholesale billing demand was reduced by a total of 13,400 kW-months for the three winter months of December 1992 through February 1993. Pursuant to Order No. 20,694, NHEC filed on June 30, 1993, a Report of the Results of the NHEC 1992-1993 Interruptible Load Program. Additional savings were achieved during the non-winter months by a reduction in PSNH's ratcheted billing demand of 34,441 kW-months. NHEC estimates the 1992-1993 program achieved total gross savings in power costs of \$282,906 of which participating members received \$133,780 directly in interruptible credits. After removing administrative costs, the net program benefit to NHEC was \$137,126.

The 1993-1994 Interruptible Load Program incorporated a number of changes from last year's program. The salient features include the replacement of the Code 20 provision with a Code 200 option for customers willing and able to interrupt a specified portion of their load up to 200 hours per month. The Code 20 option, which restricted interruptions to no more than 20 hours cumulative per month, was not well received by customers. Other important changes include NHEC's continuing emphasis on the demand charge to better reflect the demand charge in PSNH's wholesale tariff and the ability of members to sign Member Service Agreements containing the basic program provisions with terms extending up to three years.

NHEC supports its Primary and Secondary Service Interruptible rates based on the cost of service analysis and Test Year billing determinants submitted by NHEC in DR 93-124. For Primary Service members, NHEC proposes to increase the base demand charge from \$530 per kVA to \$700 per kVA for the first 100 kVA. All kVA used in excess of the first 100 will be billed at \$13.29 per kVA, an increase from last year's rate of \$10.85 per kVA. The base energy rate will decrease from 6.133¢ per kWh to 5.80¢ per kWh. The interruptible load credit for members choosing Code 70 increases from \$9.35 per kVA to \$11.56 per kVA. The new Code 200 credit will be \$12.97 per kVA. All rates are adjusted for surcharges and the 1% State Franchise Tax and reflect a Power Cost Adjustment (PCA) factor of 0.00¢ per kWh.

Customers on Secondary Service Interruptible rates will see changes in their rates similar to the changes in the Primary Service Interruptible rates. The proposed base demand charge will increase from \$10.10 per kW to \$13.24 per kW. The proposed base energy charge will decrease from 7.263¢ per kWh to 6.50¢ per kWh. The Code 70 Interruptible Load Credit will increase from \$10.00 per kW to \$11.19 per kW and the Code 200 provision rate is proposed at \$14.87 per kW. As in the Primary Interruptible Program, the rates and credits are adjusted for franchise tax and surcharges.

B. Staff of the Commission

Staff did not present a witness, but raised several issues regarding the general structure of NHEC's 1993-1994 Winter Interruptible Program. Staff questioned Mr. Eicher about the real-time pricing experiment with Waterville Valley that was expected to occur during the 1992-1993 winter season, but will be conducted during the 1993-1994 winter interruptible period. The ability of customers to change to real-time pricing sometime during the three years of the Member Service Agreement if the experiment appears successful was also an issue raised by Staff. Staff expressed an additional concern about NHEC's ability to measure and minimize the "free rider" problem commonly associated with conservation and load management (C&LM)

programs. Staff questioned Mr. Eicher about credits received by customers for interruptible load which may include designated interruptible load that is not operational at the time of the interruption, and therefore not available to be interrupted. The designated load may appear to be interrupted when called by the NHEC dispatcher because other master-metered load had already been curtailed.

Related to the pricing of the interruptible credits, Staff questioned the Cooperative about whether it was proper to credit the 1% franchise tax to the interruptible credit.

C. Office of Consumer Advocate

The OCA is concerned that NHEC may be paying more for a desired level of interruptible load at certain delivery points than it needs to pay. OCA avers that an over-subscription at those delivery points could be averted if NHEC availed itself of market forces through an auction mechanism for interruptible load. OCA also believes that a negotiated load level or an auction mechanism designed to employ the benefits of market forces would reduce the chance of over-subscription and mitigate Staff's concern about free-riders in the NHEC interruptible load program. OCA also believes that once a rate were set through negotiations or an auction mechanism, concerns about demand forgiveness or who should receive the franchise tax would become irrelevant.

The OCA recommends that the Commission not approve the three-year framework of NHEC's interruptible program, particularly the new Code 200 option, until more information about the program's effectiveness can be evaluated. OCA's final recommendation is that the Commission set the Code 200 secondary service credit at the same level as the tariffed demand charge, \$13.24 per kVA, rather than \$14.87 per kVA as NHEC has proposed.

III. Commission Analysis

It is uncontroverted that due to the nature of PSNH's wholesale tariff with NHEC well-designed interruptible load programs offer NHEC the ability to reduce its purchased power costs. The 1993-1994 program makes changes that should result in better load management demand reductions at its delivery points as well as to place more emphasis on the demand charge component of the rate. As Staff and the OCA point out, the 1993-1994 Winter Interruptible Program faces, as do most conservation and load management programs, the problem of minimizing "free riders". The "free-rider" problem reduces the benefits of the program and according to Mr. Eicher, "represents a net loss of revenue." We recognize the ramifications of this problem and encourage NHEC to address this problem in its next filing.

Based on our review of the record in this proceeding, including the recommendation of the Finance Department concerning the inclusion of the franchise tax in the credit participants receive, we will approve NHEC's 1993-1994 Winter Interruptible Program as filed. The 1993-1994 program should bring benefits to both the participants and the other members of NHEC.

An order consistent with this report has previously been issued (Order No. 21,038 dated November 22, 1993).

ORDER

Upon consideration of the foregoing report; it is hereby

ORDERED, that the proposal by New Hampshire Electric Cooperative to offer two categories of interruptible load, Code 70 and Code 200, is approved; and it is

FURTHER ORDERED, that New Hampshire Electric Cooperative (NHEC) file compliance tariff pages no later than December 1, 1993; and it is

FURTHER ORDERED, that New Hampshire Electric Cooperative file the results of this year's program, including the results of the real-time pricing proposal with Waterville Valley by June 1, 1994; and it is

FURTHER ORDERED, that New Hampshire Electric Cooperative file next year's interruptible load program no later than August 1, 1994.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of November, 1993.

=====

NH.PUC*11/22/93*[75277]*78 NH PUC 689*New England Telephone Company

[Go to End of 75277]

Re New England Telephone Company

DR 93-208

Order No. 21,039

78 NH PUC 689

New Hampshire Public Utilities Commission

November 22, 1993

Order Suspending Tariffs for SWITCHWAY® Service.

BY THE COMMISSION:

ORDER

On October 29, 1993 New England Telephone Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce SWITCHWAY® Service, a switched 56 kilobit per second service, for effect November 28, 1993; and

WHEREAS, the proposed tariff pages submitted by the Company require further investigation by Staff; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 75

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Part C-Section 10 Original Pages 1 through 15

be suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this twenty-second day of November, 1993.

=====

NH.PUC*11/22/93*[75278]*78 NH PUC 689*New England Telephone Company

[Go to End of 75278]

Re New England Telephone Company

DR 93-209
Order No. 21,040
78 NH PUC 689

New Hampshire Public Utilities Commission
November 22, 1993

Order Suspending Tariffs for ISDN Primary Service.

BY THE COMMISSION:

ORDER

On October 29, 1993 New England Telephone Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce ISDN Primary Service, for effect November 28, 1993; and

WHEREAS, the proposed tariff pages submitted by the Company require further investigation by Staff; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 75

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Part C-Section 10 Original Table of Contents Page 1
Original Pages 16 through 22

be suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this twenty-second day of November, 1993.

=====

NH.PUC*11/22/93*[75279]*78 NH PUC 689*New England Telephone Company

[Go to End of 75279]

Re New England Telephone Company

DR 93-210
Order No. 21,041
78 NH PUC 689

New Hampshire Public Utilities Commission
November 22, 1993

Order Suspending Tariffs for ISDN Basic Service.

BY THE COMMISSION:

ORDER

On October 29, 1993 New England Telephone Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce ISDN Basic Service, for effect November 28, 1993; and

WHEREAS, the proposed tariff pages submitted by the Company require further investigation by Staff; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 75

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Part C-Section 10

Original Pages 1 through 15

be suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this twenty-second day of November, 1993.

=====

NH.PUC*11/22/93*[75280]*78 NH PUC 690*EnergyNorth Natural Gas, Inc.

[Go to End of 75280]

Re EnergyNorth Natural Gas, Inc.

DE 93-168
Order No. 21,042
78 NH PUC 690

New Hampshire Public Utilities Commission
November 22, 1993

Petition for Approval of Proposed Rate Treatment for Testing of Pond Site and Removal and Disposal of Contents of Concord Gasholder; Report and Order Approving Settlement Agreement.

Appearances: McLane, Graf, Raulerson and Middleton by Steven V. Camerino, Esq. for EnergyNorth Natural Gas, Inc.; James R. Anderson, Esq. and Michael W. Holmes, Esq. of the Office of Consumer Advocate for residential ratepayers; Amy Ignatius, Esq. for the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

On September 21, 1993, EnergyNorth Natural Gas, Inc. (ENGI) filed with the New Hampshire Public Utilities Commission (Commission) a Petition for Approval of Proposed Rate Treatment for Removal and Disposal of Contents of Concord Gasholder and Related Matters (Petition).

In the Petition ENGI requested that the Commission approve a methodology by which it could include in its rates:

(a) the costs of removing and disposing of coal tar deposits and a quantity of stored water in its gasholder located on its Gas Street premises in Concord, New Hampshire, both of which are the residue of the manufactured gas process which took place there from 1852 to 1952; and

(b) the costs related to monitoring groundwater and testing sediments at a pond near Manchester Street Bridge in Concord, New Hampshire.

The Petition also made clear that ENGI continues to evaluate the studies of environmental experts as to further cleanup and disposal costs and was not at this time requesting recovery of actual costs of removing and disposing of the contents of the gasholder or of testing groundwater and sediments at the pond site.

ENGI stated in its Petition that Financial Accounting Standards (FAS) and Securities and Exchange Commission (SEC) standards, require that ENGI record as a liability the estimated cost of the items listed above but not record a corresponding asset unless the Commission determines that prudently incurred costs will be recoverable by ENGI. ENGI, therefore, sought approval to record a regulatory asset which would offset the liability for the potential cost of the environmental contamination.

The Petition proposed the following mechanism for recovery of the costs of the removal and disposal of the contents of the gasholder and investigation of the pond site:

(a) the estimated costs incurred would be capitalized and amortized over a ten year period;

(b) the unamortized portion of the expense would be included in ENGI's rate base;

(c) ENGI would not include these costs in its rates until its next rate case, at which point the Commission would review the actual expenses and determine if they were prudently incurred; the decisions of ENGI and its predecessors in interest in the operations of the gasholder,

however, would not be subject to further regulatory review;

(d) ENGI would include in rates all prudently incurred costs of seeking third party payment for removal and disposal and costs of testing groundwater and sediments at the pond site;

(e) all recovery obtained by ENGI from third parties, after credit to ENGI for costs not yet reimbursed, would be passed to ratepayers.

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The Commission issued an order of notice on September 28, 1993 calling for a prehearing conference on October 8, 1993 and hearing on the merits October 22, 1993. The order of notice delineated the contents of the Petition in detail.

At the October 8, 1993 prehearing conference, a highly expedited procedural schedule was proposed in order to accommodate ENGI's request that the Petition be acted upon by November 1, 1993. The Commission adopted the schedule in Order No. 20,993 (October 13, 1993). There were no intervenors at the prehearing conference or at any time in the proceeding.

After expedited discovery and settlement discussions, ENGI, the Office of Consumer Advocate (OCA) and the Commission Staff (Staff) reached a settlement regarding the appropriate accounting treatment for the regulatory asset to be created. The settlement was recorded in the form of "Settlement Points", introduced as Exhibit 21 and attached hereto as Attachment A. OCA and the Staff, however, had concerns about the contents of the gasholder, and whether the material required the type of disposal and treatment suggested by ENGI. A hearing on the settlement and the environmental findings was held on October 22, 1993.

At its October 27, 1993 meeting, the Commission approved the Settlement. This report and order will delineate the Settlement points and the Commission's analysis of the evidence.

II. POSITIONS OF PARTIES AND STAFF

A. ENGI

ENGI presented testimony regarding the use of the gasholder during normal operations of a manufactured gas utility. As more fully detailed in Exhibit 2, ENGI's predecessors manufactured gas at that site since 1888 and continued to use the gasholder as a storage holder and relief holder of raw gas from the gas house until 1952. According to ENGI, the contents of the holder are the normal by-products of the manufactured gas process.

Roberta Haney of Environmental Science and Engineering, Inc. (ESE), environmental consultant to ENGI, testified that the gasholder contains numerous chemicals that are in quantities that make them "hazardous" under both state and federal standards. Of particular concern is the high quantity of benzene and phenol and the ignitability of the contents, according to test results in Exhibit 8 and 13. In ENGI's view, the test results are sufficiently reliable to require ENGI to undertake clean up and disposal of the gasholder contents. While there has been no ruling to that effect from the State Department of Environmental Services (DES), ENGI stressed the state's environmental regulations require self-regulation of hazardous materials, such that the obligation to remove and properly dispose of them is on a company regardless of regulatory enforcement actions.

According to ENGI Treasurer, Michelle Chicoine, FAS Nos. 5 and 71 and SEC Accounting Bulletin No. 92 require that once a liability is identified, a utility must record the last contingency as a liability on its books, but cannot record a corresponding asset unless there is an expectation of recovery for that liability. Because cost estimates for clean up of the gasholder and testing of the pond have been received by ENGI, those estimated costs must now be listed as a liability on ENGI's 1993 books. If there were no Commission determination regarding recovery, ENGI would be required to write-off the entire amount of the cost estimates in its current statements. A Commission order establishing a mechanism which provides for recovery (as opposed to actually collecting the revenues to pay for the clean up and testing at this time) is sufficient to allow ENGI to record a regulatory asset and avoid the write-off.

The Settlement reached between ENGI, OCA and the Staff calls for creation of a regulatory asset to be amortized over seven years. The deferred asset will be created through a step adjustment mechanism, at which time the amortization will be included in rates. The deferred asset and its tax liability, however, will not be included in rate base and no carrying costs on the unamortized balance of the deferred asset would be borne by ratepayers. If the property is sold or transferred to a non-utility, ENGI would expect ratepayers to have the benefits associated with utility owner-

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ship of the property. The rate increase would be allocated to all ratepayers on an equal basis per therm, though there will be no separate line item on the bill itemizing this recovery. Any third party recoveries will be credited to ratepayers and prudently incurred costs to recover from third parties will be borne by ratepayers. The agreement will not be considered binding for any other recovery sought by ENGI or another utility. Finally, the Settlement is to be considered and accepted or rejected in its entirety.

The Settlement does not guarantee any particular recovery amount or establish any particular clean up method. It creates a step adjustment mechanism for recovery of prudently incurred costs of clean up and testing. The actual amounts to be included in rates, therefore, cannot be determined until the testing and clean up have been completed. Estimates at this time, however, are that the testing of the pond will cost approximately \$160,000 and the clean up and disposal of the gasholder will cost between \$1.2 and \$1.5 million.

B. OCA

OCA agreed to the Settlement but questions whether the estimated clean up and disposal of the gasholder was necessary and expressed concern that ENGI was undertaking a costly treatment without demonstrating reliable test results or determinations of environmental regulators demanding such treatment. OCA suggested ENGI undertake additional testing to evaluate the contents of the gasholder before committing to any particular treatment plan.

C. Staff

Staff shared OCA's concern that the disposal and clean up of the contents of the gasholder did not seem grounded on very hard findings that such treatment was necessary. Staff questioned James Hewitt of DES regarding the contents of the gasholder and the reliability of the test results

showing a number of hazardous chemicals.

Staff did not contest the history of the use of the gasholder property or the management practices that led to the contents of the gasholder. Staff supported the Settlement, provided it was clear that the Commission would evaluate the prudence of the actual clean up and disposal costs for the gasholder and testing of the pond site at the time of the step adjustment proceeding.

III. COMMISSION ANALYSIS

Based upon review of the testimony and exhibits in this case, as well as our knowledge of the gas industry, we find that the contents of the gasholder are consistent with normal and sound operations of a manufactured gas facility. We find no management imprudence that led to the gasholder's contents.

Because we are not being asked today to evaluate the particular clean up mechanism for the gasholder, we need not make any findings regarding the chemicals contained within the gasholder. It appears from the test results of ESE that hazardous substances, including benzene and phenol, are in quantities which exceed standards of state and federal regulatory agencies, though we heard evidence from Ms. Haney and Mr. Hewitt that at times a particular sample can produce results that are not representative of the entire contents being tested. We will not require ENGI to undertake additional testing at this time, but will evaluate the prudence of ENGI's investigation into the gasholder contents and methods of clean up and disposal at the time of the step adjustment proceeding. Certainly any clean up method that can responsibly and safely resolve the problems of the gasholder for less than the costs now estimated will be looked upon favorably. The participation of Mr. Hewitt was extremely helpful. We appreciate his willingness at short notice to testify and assist us in our evaluation of the environmental aspects of this case.

We caution here that as environmental awareness grows, it is our belief that regulators should not allow utility ratepayers to become an expeditious means by which to assess clean up costs. Where appropriate, we will allow such recovery by means of a rate case, step adjustment or other mechanism. The particular terms of the recovery mechanism, including the

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length of any amortization period, will be determined on a case by case basis. However, we will protect utility ratepayers from becoming a funding source for what is otherwise a public need that should be met by another funding mechanism.

In this particular case, we find that the clean up and disposal are directly related to the operations of the utility, and will authorize a mechanism for recovery. We agree with ENGI that having to write off the liability in this fiscal year and then possibly recover that amount in another year does not enhance the earnings history of the company or the stability of ratepayers' bills. We find the step adjustment mechanism and the amortization of the regulatory asset, therefore, to be in the public interest. We also find that some sharing of the burden between ratepayers and shareholders may be appropriate and, for that reason, will approve the provisions in the Settlement that prohibit carrying costs or rate base treatment of the regulatory asset.

Our order will issue accordingly.

Concurring: November 22, 1993

ORDER

Upon consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that we find the presence of the materials within the gasholder now owned by EnergyNorth Natural Gas, Inc. (ENGI) to be consistent with standard operations of a manufactured gas facility and will authorize recovery for prudently incurred costs to test, clean up and dispose of the residue from the manufactured gas process; and it is

FURTHER ORDERED, that we find it appropriate for ENGI to undertake testing of residue at the pond site near the Manchester Street Bridge and will authorize recovery for prudently incurred costs to test the pond site area; and it is

FURTHER ORDERED, that the mechanism for recovery of prudently incurred costs of the clean up and disposal of the contents of the gasholder and the testing of the pond site as defined in Exhibit 21 and delineated in the foregoing report is in the public interest and is approved.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of November, 1993.

=====

NH.PUC*11/29/93*[75281]*— NH PUC —*Granite State Electric Company

[Go to End of 75281]

[THE FOLLOWING CASE WAS NOT PUBLISHED IN NEW HAMPSHIRE VOLUME 78.]

Re Granite State Electric Company

DR 93-188
Order No. 21,043
— NH PUC —

New Hampshire Public Utilities Commission
November 29, 1993

Report and Order Addressing Intervention and Procedural Schedule.

Appearances: David J. Saggau, Esq. on behalf of Granite State Electric Company; Kenneth Traum on behalf of the Office of the Consumer Advocate; George McCluskey on behalf of the New Hampshire Public Utilities Commission Staff.

BY THE COMMISSION:

I. PROCEDURAL HISTORY

On October 1, 1993, Granite State Electric Company (Granite State) filed proposed adjustments to its 1994 Conservation and Load Management (C&LM) program.

On October 4, 1993, the Commission issued an Order of Notice setting a prehearing conference for 10:00 a.m. November 15, 1993.

At the prehearing conference on November 15, 1993, the Commission received evidence of proper publication of the Order of Notice. No petitions to intervene were received in this matter.

II. POSITIONS OF THE PARTIES AND STAFF

Granite State and the Staff recommended the following schedule to govern the investigation into the proposed adjustments.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Staff/OCA/Intervenor Data Requests of Granite State Electric	November 18, 1993
Granite State Electric Responses	December 3, 1993
Technical Session	December 9, 1993 1:00 PM
Staff/OCA/Intervenor Testimony	December 21, 1993
Granite State Electric Data Requests of Staff/OCA/Intervenor	December 30, 1993
Staff/OCA/Intervenor Responses	January 11, 1994
Settlement Conference	January 20, 1994
Hearing	February 15, 1994

III. COMMISSION ANALYSIS

We accept the stipulated procedural schedule set forth above as reasonable to govern this proceeding.

Our order will issue accordingly.

Concurring: November 29, 1993

ORDER

In consideration of the foregoing report which is made a part hereof; it is hereby ORDERED, that the schedule set forth in the preceding report is adopted to govern this proceeding.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of November, 1993.

=====

NH.PUC*11/29/93*[75282]*78 NH PUC 693*Sprint Communications Company of New Hampshire, Inc.

[Go to End of 75282]

Re Sprint Communications Company of New Hampshire, Inc.

DE 93-205
Order No. 21,044

78 NH PUC 693

New Hampshire Public Utilities Commission

November 29, 1993

Order *Nisi* Approving Sprint Clarity Customizer.

BY THE COMMISSION:

ORDER

On October 26, 1993, Sprint Communications Company of New Hampshire, Inc. (Sprint) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce Sprint Clarity Customizer, clarify when the "Holidays" discounts apply and make minor text changes; and

WHEREAS, Sprint Clarity Customizer is available to Sprint Clarity outbound and Sprint Clarity FONCARD Customers and provides a discount on calls placed to the most frequently called area code; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the following tariff pages for Sprint's NHPUC No. 3 are approved:

17th Revised Page 1

2nd Revised Page 9

Original Page 9.1

3rd Revised Page 49

2nd Revised Page 49.1

1st Revised Page 49.3

1st Revised Page 63.3

1st Revised Page 63.4

1st Revised Page 63.5

1st Revised Page 63.6

Page 693

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, Sprint cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that

portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than December 9, 1993 and is to be documented by affidavit filed with this office on or before December 20, 1993; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than December 20, 1993; and it is

FURTHER ORDERED, that Sprint file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective December 22, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of November, 1993.

=====

NH.PUC*11/29/93*[75283]*78 NH PUC 694*Long Distance North of New Hampshire, Inc.

[Go to End of 75283]

Re Long Distance North of New Hampshire, Inc.

DE 93-202

Order No. 21,045

78 NH PUC 694

New Hampshire Public Utilities Commission

November 29, 1993

Order *Nisi* Approving Extensive Modifications to Tariff No. 1 and Requiring the Filing of a New Tariff.

BY THE COMMISSION:

ORDER

On October 22, 1993 Long Distance North of New Hampshire, Inc. (LDN) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to amend the existing tariff by the removal and addition of certain offerings; and

WHEREAS, LDN seeks to introduce Dimension Service and MegaWATS Plus, intrastate services to and from any point in the State of New Hampshire; and

WHEREAS, LDN seeks removal of WATS Plus, InWats offerings and WATS Plus term plan offerings. Revisions also include the removal of separate 1+WATS, MegaWATS and Granite State Select term plan offerings; and

WHEREAS, revisions call for the reduction in commercial/residential Dial-Up service rates and the addition of standard term plan offerings for 1+WATS, MegaWATS, Granite State Select, Excel Switched 800 and Excel Mega 800 customers; and

WHEREAS, revisions increase Operator Service usage rates, the Option A travel 800 surcharge, Granite State Select installation charge and monthly line charge; and

WHEREAS, the service now called Business Line 800 will be changed to Excel Switched 800 and will reflect a reduction of usage rates and installation charges, and an increase in monthly rates; and

WHEREAS, LDN requested an effective date of November 21, 1993; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, pursuant to Puc 1601.05(b) (2), "when more than 50% of the pages of a complete tariff are effected in a single filing a complete new tariff shall be filed;" and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the following tariff pages for NHPUC No. 1 are approved:

- 4th Revised Page 2
- 3rd Revised Page 4
- 2nd Revised Page 8
- 2nd Revised Page 9
- 1st Revised Page 10
- 1st Revised Page 19
- 1st Revised Page 19.1
- 2nd Revised Page 20
- 2nd Revised Page 21
- 2nd Revised Page 24
- 1st Revised Page 25

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- 2nd Revised Page 26
 - 2nd Revised Page 26.1
 - 1st Revised Page 26.2
 - 2nd Revised Page 27

3rd Revised Page 28
1st Revised Page 28.1
1st Revised Page 29
2nd Revised Page 30
2nd Revised Page 31
2nd Revised Page 32
2nd Revised Page 33
Original Page 33.1
Original Page 33.2
1st Revised Page 40;

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, LDN cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than December 9, 1993 and is to be documented by affidavit filed with this office on or before December 20, 1993; and it is

FURTHER ORDERED, that LDN file a complete new tariff, LDN NHPUC No. 2 incorporating the changes approved above with the existing approved pages in LDN's NHPUC No. 1, in compliance with Puc 1601.05(b) (2), no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than December 20, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective December 22, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of November, 1993.

=====

NH.PUC*11/29/93*[75284]*78 NH PUC 695*Investigation into New England Telephone's Long Distance Dialing Plan for New Hampshire (INPA)

[Go to End of 75284]

Re Investigation into New England Telephone's Long Distance Dialing Plan for New Hampshire (INPA)

DE 93-003
Order No. 21,046
78 NH PUC 695

New Hampshire Public Utilities Commission

November 29, 1993

Order Clarifying the Portion of Order No. 29,938 Requiring Provision of Cost Information for Blocking Either 1+ 10 or 7 Digit Dialing Pattern.

BY THE COMMISSION:

ORDER

New England Telephone and Telegraph Company (NET) filed for clarification of Order No. 20,938, issued August 20, 1993, in which the Public Utilities Commission (the Commission) directed NET and the Independent Telephone Companies (the ICOs, including: Granite State Telephone, Inc., Merrimack County Telephone, Dunbarton Telephone Company, Inc., Wilton Telephone Company, Inc., and Bretton Woods Telephone Company, Contel of New Hampshire d/b/a GTE NH and GTE Maine, Chichester Telephone Company, Kearsarge Telephone Company, Meriden Telephone Company, and Union Telephone Company) to make available, as part of the change in dialing patterns which must be implemented by January 1, 1995, a blocking option permitting customers to restrict individual telephone lines to either the 7 digit or the 1+ 10 digit dialing pattern; and

Pursuant to New Hampshire Public Utilities Commission Order No. 20, 997, NET and the ITCs responded to data requests from the Commission Staff regarding the definitional parameters, specific technological operations and implementation data of 1+ 10 and 7 digit blocking services; and

WHEREAS, the Commission Staff has reviewed and analyzed the companies' data responses and submitted its analysis to the Commission for review; and

WHEREAS, no party has proffered a reasonable need for 1+ 10 digit blocking; and

WHEREAS, more than one type of blocking cannot be offered by several of the ICOs without significant investment; and

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WHEREAS, 7 digit blocking will create a situation which will deny direct 7 digit dialing access to Municipal calling and Emergency Services numbers that are toll calls; and

WHEREAS, E911 service, slated to go into operation in July, 1995, will alleviate the above-mentioned problem regarding Emergency Services numbers that are toll calls; and

WHEREAS, Kearsarge Telephone Company does not have enough capacity on its switch to offer an additional blocking option, beyond those currently offered, without deleting or combining blocking options; and

WHEREAS, the Commission reaffirms its finding that blocking is an appropriate and useful option for New Hampshire telephone customers in dealing with the dialing pattern change; and

WHEREAS, the Commission and Commission Staff have reviewed and evaluated the Plan for Implementation of Blocking presented by representatives of NET on November 9, 1993, and supported by the ICOs; and

WHEREAS, telecommunications in New Hampshire will experience growth and change which cannot be entirely anticipated; therefore it is hereby

ORDERED, that NET and the ICOs shall not be required to provide 1+ 10 digit blocking as a customer option; and it is

FURTHER ORDERED, that NET and the ICOs shall provide 7 digit blocking for residential and business lines and PBX trunks; and it is

FURTHER ORDERED, that customer education programs regarding the dialing pattern change shall include particular segments for areas in which customers must dial a toll call for emergency service numbers and for Municipal calling areas so that those customers understand the ramifications of choosing the blocking option; and it is

FURTHER ORDERED, that Kearsarge Telephone Company shall provide the 7 digit blocking option even though doing so will require combining the option with another offering.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of November, 1993.

=====

NH.PUC*11/30/93*[75285]*78 NH PUC 696*Connecticut Valley Electric Company

[Go to End of 75285]

Re Connecticut Valley Electric Company

DR 93-227

Order No. 21,047

78 NH PUC 696

New Hampshire Public Utilities Commission

November 30, 1993

Order *Nisi* Changing Purchased Power Rate on an Interim Basis.

BY THE COMMISSION:

ORDER

On November 10, 1993, Connecticut Valley Electric Company (CVEC) filed a letter with proposed changes to the currently effective tariff sheets, 4th Revised Page 13 and 4th Revised

Page 16, requesting that the Commission allow CVEC to delay its annual December 1, 1993 Fuel Adjustment Clause (FAC) and Purchased Power Cost Adjustment (PPCA) filings to January 28, 1994 with a March 1, 1994 effective date and allow CVEC to continue billing the currently effective FAC and PPCA rates during the interim period; and

WHEREAS, CVEC is proposing that these changes coincide with a similar proposal to change the effective date of its Conservation and Load Management Percentage Adjustment (C&LMPA) rate in Docket No. DR 93-151 to March 1, 1994; and

WHEREAS, CVEC expects there will be an over-recovery by \$47,338 or 0.8% by the end of 1993 in its FAC; and

WHEREAS, CVEC expects to have a \$404,646 or 5.6% under-collection in the PPCA by year-end under the currently effective PPCA rate of negative \$0.0022 per kWh; and

WHEREAS, the expected under-collection is based on estimates of a December 1993 annual Central Vermont Public Service (CVPS) peak and CVEC's load coincident with CVPS's peak load; and

WHEREAS, the annual peak data has a 70% weighting in the allocation factor of CVPS capacity costs to CVEC in the wholesale RS-2 rate thereby creating a potentially large swing in the year- end over/under recovery of PPCA costs if the December forecasted peak load is substantially different from the December actual peak load; and

WHEREAS, a delay in CVEC's PPCA filing will allow CVEC to incorporate December's actual peak as well as possibly January's

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actual peak into CVEC's March 1, 1994 proposed PPCA rate; and

WHEREAS, CVEC's on-peak seasonal rate design increases base rates on December 1 of each year and returns to off-peak rates on March 1 of the following year; and

WHEREAS, although the change of three rates on one date may be a desirable objective from the perspective of CVEC and its customers, the primary benefit of CVEC's proposal is the usage of known peak data into the PPCA allocation of RS-2 costs; and

WHEREAS, CVEC's PPCA projected under-recovery of purchased power costs exceeds the 5% threshold under which CVEC or another party may petition the Commission to change the PPCA rate; and

WHEREAS, continuance of the present PPCA rate would result in a larger under-recovery of PPCA costs; it is hereby

ORDERED *Nisi*, that CVEC's current FAC rate of \$0.0051 per kWh remain in effect until the Commission orders otherwise and that CVEC's proposal to continue billing its current PPCA rate of \$(0.0022) per kWh is rejected; and it is

FURTHER ORDERED, that CVEC file effective December 1, 1993, tariff pages reflecting a PPCA rate of \$0.00 per kWh, an increase of \$0.0022 per kWh over the current PPCA rate; and it is

FURTHER ORDERED, that CVEC notify customers directly and as soon as possible of the December 1, 1993 change in the PPCA rate as well as the proposed filing changes; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the petitioner notify all persons desiring to be heard by causing an attested copy of this order to be published once in a paper having general circulation in that portion of the State in which operations are proposed to be conducted, such publication to be no later than December 10, 1993, said publication to be documented by affidavit filed with this office on or before December 27, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments and/or request an opportunity to be heard in this matter no later than 15 days after the date of publication of this Order; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective December 30, 1993, retroactive to December 1, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirtieth day of November, 1993.

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NH.PUC*11/30/93*[75286]*78 NH PUC 697*Beaver Village Realty Trust

[Go to End of 75286]

Re Beaver Village Realty Trust

DE 92-226

Order No. 21,048

78 NH PUC 697

New Hampshire Public Utilities Commission

November 30, 1993

Order Appointing New Receiver.

BY THE COMMISSION:

ORDER

WHEREAS, Report and Order No. 20,795 (March 25, 1993) provided the full procedural history and various facts and findings in this docket, which will not be repeated herein and also appointed a receiver for the Beaver Village Realty Trust water system located in a subdivision of the Town of Salem known as Porcupine Park; and

WHEREAS, a hearing was held on April 20, 1993, various meetings were held with Porcupine Park residents, and other efforts were made by Commission Staff and other parties, all of which have to date failed to yield a permanent solution to the ownership and operation of the

water system; and

WHEREAS, on September 20, 1993, the Commission received notice from Lancaster Farms Water Company (LFWC) that as of October 31, 1993 it would no longer serve as receiver for the water system; and

WHEREAS, a search by Commission Staff produced only one qualified operator, namely Southern New Hampshire Water Company (Southern), willing to serve as receiver; and

WHEREAS, Southern submitted a proposal on November 8, 1993 to operate the water system as a receiver; and

WHEREAS, it is in the public good that a receiver be appointed immediately to ensure that safe drinking water will continue to be delivered in accordance with the requirements

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of the Commission and other federal and state agencies; it is hereby

ORDERED, pursuant to RSA 374:47-a, Southern is appointed to replace LFWC as receiver of the Beaver Village Realty Trust water system, for thirty (30) days commencing with the date of this order, subject to the following terms and conditions:

1. Southern is authorized to bill each of the customers receiving service from the water system a monthly receivership fee of \$10, billable directly to the customer.
2. The collective receivership fee shall include the following:
 - a. Payment of monthly charges for electric service;
 - b. Two trips per week to inspect the water system;
 - c. All billing and normal collection services;
 - d. 24 hour call availability and emergency service;
 - e. Monthly bacteriological sampling and testing, to include one test.
3. Terms and conditions of service shall be governed by this Order, the rules and regulations of the Commission, and, where applicable, Southern's filed tariff.
4. The "jobbing" rate for unscheduled service calls shall be \$28 per hour during Southern's normal duty hours, and a minimum two hour call at \$84, plus any additional hours at \$42 per hour, for other than normal duty hour calls.
5. Necessary repairs or improvements to the system, whether treated as capital expenditures or as expenses under the Commission's Chart of Accounts for Water Utilities, shall be considered to be over and above those costs covered by the collective receivership fee. No such repairs or capital additions shall be made without prior approval by the Commission or its authorized representative from Staff except under emergency conditions.
6. Costs of items other than those listed in paragraphs 2 and 5 above, such as property taxes, fees and fines by various agencies, additional sampling and testing, treatment, purchased water, use of outside contractors, recovery of uncollectible accounts, legal expenses, etc., although not anticipated, shall be addressed by the Commission if and at such time as they occur and are

brought to the Commission's attention by Southern; and it is

FURTHER ORDERED, that a hearing be held on December 14, 1993 at 10:00 A.M. at the Public Utilities Commission, 8 Old Suncook Road, Concord, New Hampshire to evaluate whether Southern should continue as operator of the system; and it is

FURTHER ORDERED, that Southern shall immediately send letters to all customers of the Beaver Village Realty Trust water system, to include but not be limited to, an introduction outlining its experience in the management and construction of water utilities, its billing schedule, the 24 hour emergency service number and a copy of this Order.

By order of the New Hampshire Public Utilities Commission this thirtieth day of November, 1993.

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NH.PUC*12/02/93*[75287]*78 NH PUC 699*Public Service Company of New Hampshire

[Go to End of 75287]

Re Public Service Company of New Hampshire

DR 93-149

Order No. 21,049

78 NH PUC 699

New Hampshire Public Utilities Commission

December 2, 1993

Order Approving Increase to Fuel and Purchased Power Adjustment Rate.

BY THE COMMISSION:

Report not available at time of publication. See Commission file.

ORDER

Upon consideration of the foregoing Report, which is made apart hereof; it is hereby

ORDERED, that the Stipulation and Recommendation on Capacity Sales Issues, attached hereto as Appendix A, is approved; and it is

FURTHER ORDERED, that effective December 1, 1993, the Fuel and Purchased Power Adjustment Clause rate will be 0.316¢ per kWh, an increase of 0.206¢ per kWh over the currently effective rate; and it is

FURTHER ORDERED, that PSNH calculate its FPPAC costs in Exhibit 4 of the FPPAC Monthly Data Filing without interest commencing December 1, 1993; and it is

FURTHER ORDERED, that PSNH file compliance tariff pages by December 10, 1993.

By order of the New Hampshire Public Utilities Commission this second day of December, 1993.

APPENDIX A

STATE OF NEW HAMPSHIRE BEFORE THE PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire Fuel and Purchased Power Adjustment Clause
Docket No. DR 93-149

STIPULATION AND RECOMMENDATION ON CAPACITY SALES ISSUES

WHEREAS, the Commission held hearings in this proceeding on November 8 and 9, 1993;

WHEREAS, the issues with respect to capacity sales that were contested in this proceeding are the following:

- Whether revenues from either an energy reservation charge or a capacity charge that are associated with capacity sales of less than one week should be assigned to shareholders or customers; and
- The interpretation of Paragraph 4(ii) of the Joint Recommendation for Commission Order in Docket No. DR 89-244, requiring PSNH to insulate customers from the incremental cost of energy due to capacity sales.

WHEREAS, the first of these issues was a matter as to which the Commission invited further comment from the parties in its decision in the prior FPPAC proceeding, Docket No. DR 93-023, and the second issue was agreed to be deferred by the parties until this proceeding in a stipulation dated June 8, 1993 and accepted by the Commission in said Docket No. DR 93-023; and

WHEREAS, the Staff and PSNH have reached agreement on the two issues described above;
NOW THEREFORE, the Staff and PSNH agree and recommend as follows:

Allocation of Capacity Charges and Energy Reservation Charges Associated with Capacity Sales of Less than One Week

That revenues from capacity charges and energy reservation charges associated with capacity sales of less than one week made on or after the first day of the month following the date of the Commission's decision accepting this stipulation will be allocated between PSNH and the Initial System based upon their respective shares of the benefits of the Combined System's energy transactions each month. PSNH's share of such revenues will be split equally between PSNH's customers and shareholders by crediting one-half of such revenues to FPPAC expense.

Allocation of the Impact on Joint Dispatch Savings and Energy and Pass-Through Transactions Resulting from New Capacity Sales

That joint dispatch savings and the benefits from energy and pass-through transactions will change as a result of new capacity sales. If

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these new capacity sales *increase* benefits from joint dispatch savings and energy and pass-through transactions, then this increase will be split equally between customers and shareholders. If new capacity sales *decrease* benefits from joint dispatch savings and energy and

pass-through transactions, customers will be insulated from any such impacts. Accordingly, to carry out this agreement, Paragraph 4(ii) of the June 22, 1990 Joint Recommendation for Commission Order in Docket No. DR 89-244 will be interpreted in the following manner:

1. All capacity sales that are entered into on or after the date of the Commission's decision accepting this stipulation, whether from PSNH or the Initial System, will be aggregated each month and modeled to determine their net effect upon energy expenses of the Combined System, including replacement energy expense, joint dispatch savings and energy and pass-through transactions (Own Loads 1, 2, 3 and 4 will be compared with and without the capacity sales).

2. Such capacity sales will be allocated between PSNH and the Initial System in accordance with the provisions of the June 8, 1993 Stipulation and Recommendation on Capacity Sales Issues approved by the Commission in Docket No. DR 93-023.

3. PSNH's replacement energy expense (determined by comparing Own Load 4 with and without the capacity sales allocated to PSNH) will be credited to FPPAC expense to insulate customers from the effects of such sales on PSNH's own-load fuel expense.

4. If PSNH's allocated share of the remaining energy expense impacts (after adjusting for PSNH own-load replacement energy expense) of such capacity sales is a net benefit (i.e., PSNH's benefits from joint dispatch savings and energy and pass-through transactions are increased because of such sales), one-half of such net benefits will be credited to PSNH customers in FPPAC and the remainder will be retained by shareholders. If PSNH's allocated share of such remaining energy expense impacts is negative (i.e., PSNH's benefits from joint dispatch savings and energy and pass-through transactions are reduced because of such sales), PSNH customers shall be protected from 100 percent of such impacts by a credit to FPPAC.

Reservation of Rights as to Issues Beyond the Scope of this Stipulation and Recommendation

The terms of this Stipulation are without prejudice to the right of Staff or any party to raise new issues without limitation in the future that may relate to capacity versus energy transactions, interpretation or implementation of Paragraph 4(ii), or the calculation of the so-called "production cost penalty", so long as such issues have not been specifically resolved by this Stipulation, prior Stipulations or Commission order.

WHEREFORE, the Staff and PSNH recommend that the Commission adopt this Stipulation and Recommendation as a means of resolving the issues described.

Respectfully submitted,

PUBLIC SERVICE COMPANY OF

NEW HAMPSHIRE Dated: November 29, 1993 By: Gerald M. Eaton Its Attorney

NEW HAMPSHIRE PUBLIC UTILITIES

COMMISSION STAFF Dated: 11-29-93 By: E. F. Sullivan, III Its Attorney

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NH.PUC*12/06/93*[75288]*78 NH PUC 701*New Hampshire Electric Cooperative, Inc.

[Go to End of 75288]

Re New Hampshire Electric Cooperative, Inc.

DR 92-009
Order No. 21,050
78 NH PUC 701

New Hampshire Public Utilities Commission

December 6, 1993

Order Authorizing Disbursement of Escrow Funds.

BY THE COMMISSION:

ORDER

By Report and Order No. 20,472 (April 29, 1992) in Docket DR 92- 009 (Order No. 20,472), the New Hampshire Public Utilities Commission (Commission) approved the escrow of the temporary 14.76% rate increase over base rates collected between May 1, 1992 and October 5, 1992, to be maintained by the Treasurer of the State of New Hampshire in an interest bearing escrow fund (Escrow Fund); and

WHEREAS, in accordance with Order No. 20,472, the Commission must authorize release of the Escrow Fund upon the emergence of the New Hampshire Electric Cooperative, Inc. (NHEC) from bankruptcy; and

WHEREAS, in accordance with Order No. 20,472, NHEC provided the Commission written notification that NHEC emerged from bankruptcy as of December 1, 1993; and

WHEREAS, NHEC provided the Commission notification that the principal amount of the Escrow Fund now totals \$2,381,839.99 and is to be released to NHEC for inclusion in income and use by NHEC; and

WHEREAS, NHEC provided the Commission notification that the earned interest portion of the escrow account, totals approximately \$84,947.00; it is hereby

ORDERED, that the Treasurer of the State of New Hampshire, acting as Escrow Agent, disburse the Escrow Fund to NHEC for inclusion in income and use by NHEC; and it is

FURTHER ORDERED, that in accordance with Order No. 20,472, the portion of the Escrow Fund representing interest earnings shall be applied by NHEC to reduce charges to be recovered from ratepayers under the Power Cost Adjustment Clause for the current period.

By order of the New Hampshire Public Utilities Commission this sixth day of December, 1993.

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NH.PUC*12/06/93*[75289]*78 NH PUC 701*Pennichuck Water Works, Inc.

[Go to End of 75289]

Re Pennichuck Water Works, Inc.

DR 92-220
Order No. 21,051
78 NH PUC 701

New Hampshire Public Utilities Commission
December 6, 1993

Order Approving Rate Case Expenses.

BY THE COMMISSION:

ORDER

WHEREAS, Pennichuck Water Works, Inc. filed a Summary of Rate Case Expenses and supporting documentation on November 12, 1993 in the amount of \$135,605.85 pertaining to this permanent rate increase docket; and

WHEREAS, Staff has recommended approval after reviewing this documentation; and

WHEREAS, the requested amount will be recovered from customers in a surcharge to be applied over a 12-month period consistent with Section V, Page 8 of the Commission approved Settlement Agreement attached to Order Number 21,206 issued November 2, 1993; and

WHEREAS, the Rate Case Expenses appear to be consistent with the public good; it is hereby

ORDERED, that the rate case expenses for Pennichuck Water Works, Inc. be and hereby are approved effective the date of this order; and it is

FURTHER ORDERED, that the Company submit a revised tariff page reflecting the rate case recoupment amount, annotated with this Commission order number effective the date of this order; and it is

FURTHER ORDERED, that prior to the end of the recoupment period the Company will file a revised rate for the balance of the rate case expense to be recovered to assure an accurate recovery.

By order of the Public Utilities Commission of New Hampshire this sixth day of December, 1993.

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NH.PUC*12/06/93*[75290]*78 NH PUC 702*Carleton Water Company Trust

[Go to End of 75290]

Re Carleton Water Company Trust

DR 89-083
Order No. 21,052
78 NH PUC 702

New Hampshire Public Utilities Commission
December 6, 1993

Report and Order Accepting Rate Case Settlement Agreement.

Appearances: Mary Ellen Goggin, Esq. for Carleton Water Company Trust; and Amy Ignatius for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. PROCEDURAL HISTORY

The procedural history of this docket through September 1, 1992 is set forth in extensive detail in Report and Order No. 20,589 (September 1, 1992) of the New Hampshire Public Utilities Commission (Commission). Following the issuance of that Order, Carleton Water Company Trust (Carleton) filed a motion on September 21, 1992 requesting reconsideration of both Commission Order No. 20,589 and Order No. 20,541 issued July 15, 1992.

On October 19, 1992 the Commissioners, Staff, and Carleton met in an informal session to discuss Carleton's Motion. Subsequently the Commission designated new Staff members to work with Carleton to explore resolution of the issues at hand. Following this investigation, the Staff and Carleton engaged in additional discovery and extensive settlement conferences in an effort to resolve the issues raised by Carleton in its Motion for Reconsideration.

A duly noticed hearing was scheduled for November 22, 1993 to bring the docket to completion. Although the two intervenors in the docket were notified of a proposed settlement between Carleton and Staff, and were notified of the hearing date, they did not participate in the agreement nor attend the November 22, 1993 hearing.

On November 22, 1993 Carleton and Staff presented a Settlement Agreement, which is attached hereto as Attachment 1.

II. POSITION OF CARLETON AND STAFF

A. *Carleton Water Company Trust*

Staff and Carleton agreed to a rate base for the four Carleton systems as follows: Hidden Valley, \$3,918; Sunrise, \$28,965; Birch Hill and Birch Hill West, \$84,380; and 175 Estates, \$1,463. The components of rate base are as detailed on Exhibit A to the Settlement Agreement. Staff and Carleton further agreed to an overall cost of capital of 8.92%, based on a cost of equity of 12.33% and a cost of debt of 6.00%. The cost rates for debt and equity were previously approved by the Commission in Order No. 20,541. Staff and Carleton stipulated to a capital structure of 53.91% equity and 46.09% debt, the debt representing \$64,548 in accounts payable

to Water Industries, Inc. as of December 31, 1990.

Staff and Carleton further agreed that the determination of long term debt subsequent to December 31, 1990 will be determined in Carleton's next rate proceeding.

In addition, Staff and Carleton agreed to revenue requirements as follows: Hidden Valley, \$5,950; Sunrise, \$14,836; Birch Hill and Birch Hill West, \$39,490; and 175 Estates, \$8,580. Staff and Carleton agreed that said revenue requirements include the following in Operation and Maintenance expenses: Hidden Valley, \$5,186; Sunrise, \$9,410; Birch Hill and Birch Hill West, \$26,914; and 175 Estates, \$8,120.

Staff and Carleton further agreed to the recoupment of temporary rates beginning January 1, 1994 and continuing for 20 consecutive quarters, as shown on Exhibit B to the Settlement Agreement. Staff and Carleton also stipulated to the recovery of rate case expenses in the amount of \$75,446.93 in the form of a surcharge also over 20 quarters beginning January 1, 1994.

At the hearing on November 22, Carleton requested that the Commission consider allowing the recovery of additional rate case expenses not included in the Settlement Agreement. Carleton stated that these expenses were incurred subsequent to the review and recommendation by Staff of rate case expenses through the period of August 31, 1993 and were inadvertently omitted from the Settlement Agreement.

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B. Staff

Staff witnesses Douglas Brogan and Mark Naylor presented the Settlement Agreement at the hearing on behalf of the Staff and Carleton. Staff did not recommend the recovery of additional rate case expenses beyond those included in the Settlement Agreement.

During the course of the hearing, there was also discussion of the billing of the four systems, as the Settlement Agreement was designed on the basis of all four systems billing quarterly in arrears, which does not comply with the Commission's direction in Order No. 20,589 to keep the four systems on their various billing structures, which range from quarterly in arrears to annual in advance. Staff witness Naylor offered to work with Carleton to determine if the proposed rates would have to be reworked under the different billing systems. After the hearing on the Settlement Agreement Staff, with the concurrence of Carleton, submitted a letter requesting the Commission to reconsider its prior decision not to order all four systems to bill quarterly in arrears.

C. Intervenors

As noted, the Intervenors did not appear at the hearing.

III. COMMISSION ANALYSIS

Based on the November 22, 1993 testimony and consideration of the Settlement Agreement, we will accept the testimony of Staff in support of the proposed Settlement Agreement, and approve the Agreement and the permanent rates contained therein to bring this rate case to a conclusion. We believe that the Settlement Agreement results in just and reasonable rates and adequately resolves Carleton's Motion for Reconsideration. We believe that the permanent rates

that are approved herein are based on assets which are used and useful in the provision of water service to customers and were prudently invested.

We must note that the rate base valuation performed in this case is not based on a method which the Commission believes is appropriate in the general course, and we will not look favorably on other companies taking this approach. Given the unique circumstances of this case, however, we will approve the methodology in this one case, in the interest of resolving a long standing case and providing customers with a resolution of the matter without further resort to costly and time consuming litigation. We applaud all those involved for reaching a fair resolution of a difficult and protracted dispute.

With respect to Carleton's request for recovery of additional rate case expenses over and above those contained in the Settlement Agreement, we decline to approve recovery of any amount over that stipulated. Where the Agreement stipulated both the exact amount and the precise period of the recovery of rate case expenses, and was negotiated between Staff and Carleton as part of an integrated settlement, it would not be in the spirit of the agreement to allow the alteration of a provision of the agreement to the benefit of one of signatories.

We note that our previous Order No. 20,589 denied Carleton's request for a change in billing frequency to quarterly in arrears for those three systems currently billing annually. Our reasoning at that time was based on the possibility of the future implementation of metered billing, which would necessitate another change in billing practice. Although we believe that reasoning to be sound, we are concerned that the temporary rate and rate case expense surcharges, when added to the new permanent rates, could create an undue burden on customers who are on an annual billing system. We will allow Carleton, therefore, to convert to quarterly billing in arrears for all four systems, effective with this Order for those systems not now on quarterly billing. We direct Carleton to submit to Staff as soon as possible the details of this conversion, including the timing and period covered of the most recent billings and Carleton's plan to implement a smooth transition to a new billing frequency for those customers who will see a change. We are particularly concerned about any double billing for those customers who change from billing in advance to billing in arrears and order Carleton to demonstrate that no such double

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billing has or will result from the change to quarterly billing in arrears.

Consistent with our Order No. 20,589, we will order the Company to provide within three months a proposal for installation of meters or, in the alternative, why the systems should not be changed to metered use.

Our order will issue accordingly.

Concurring: December 6, 1993

ORDER

Based upon the foregoing report, which is made a part hereof, it is hereby

ORDERED, that the rate case Settlement Agreement entered into between Staff and Carleton Water Company Trust (Carleton), a copy of which is attached hereto, is hereby accepted; and it

is

FURTHER ORDERED, that Carleton's request for approval and recovery of additional rate case expenses not included in the Settlement Agreement is hereby denied; and it is

FURTHER ORDERED, that Carleton be authorized to convert its billing frequency on all of its systems to quarterly in arrears, effective with this Order, and shall submit to Staff as soon as possible the details on this conversion, including the timing and period covered of the most recent billing and Carleton's plans to provide for a smooth transition; and it is

FURTHER ORDERED, that no later than March 6, 1994, Carleton shall submit a plan for metering its systems or reasons why they should not be changed to metered use; and it is

FURTHER ORDERED, that within ten days, Carleton shall submit tariffs in compliance with this Order.

By order of the New Hampshire Public Utilities Commission this sixth day of December, 1993.

SETTLEMENT AGREEMENT

This Agreement is entered into this 22nd day of November, 1993, by and between Carleton Water Company Trust (CWC) and the Staff of the New Hampshire Public Utilities Commission (Commission), with the intent of resolving all of the issues raised by CWC and the Staff concerning revenues and rates in the above-captioned case.

I. INTRODUCTION

On May 8, 1989, CWC filed with the Commission a petition for authority to provide water service in North Conway (Birch Hill/Birch West), Middleton (Sunrise Estates), Tuftonboro (Hidden Valley) and Thornton (175 Estates) and for approval of temporary rates.

On October 17, 1989, the Staff and CWC stipulated to temporary rates at current levels effective as of July 21, 1989. Hearings were held by the Commission on April 27 and May 29, 1990, and August 9, 1991.

On July 15, 1992, the Commission issued Report and Order No. 20,541 which, among other things, rejected CWC's request for rate base valuation based on a discounted replacement cost methodology and failed to include the management contract with Water Industries as an operation and maintenance expense.

For a full procedural history of the case, see Commission Report and Order No. 20,541, dated July 15, 1992.

On August 4, 1992, CWC filed a motion for Necessary Findings and Determinations, Clarifications, etc. and/or Rehearing of Commission Order No. 20,541. CWC requested that the Commission, among other things, reconsider its decision regarding rate base, operation and maintenance expense, rate of return and the capital structure of CWC.

By Report and Order No. 20,589, dated September 1, 1992, the Commission granted (in part) and denied (in part) the Company's request for rehearing.

On September 21, 1992, CWC filed a Motion for Rehearing of Commission Orders No. 20,541 and 20,589.

A hearing on CWC's Motions for Reconsideration of Orders No. 20,541 and 20,589 was scheduled for October 19, 1992, notice of which was given to interested parties.

On October 19, 1992, the Commissioners, Staff and CWC met in an off-the-record prehearing conference to discuss the CWC's said Motions.

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As a result of the meeting, the Commission delegated new Staff members to determine, among other things, whether the Staff could recommend a rate base valuation for CWC based on other than the original cost methodology.

Subsequent to October 19, 1993, Staff and CWC have engaged in additional discovery and extensive settlement conferences in an effort to resolve the issues raised by CWC's Motions for Reconsideration.

This Settlement Agreement sets forth the agreement of Staff and CWC regarding the issues set forth herein.

II. COMPONENTS OF AGREEMENT

A. *Rate Base.* CWC and the Staff have stipulated to rate base values for each of the systems, as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Hidden Valley	- \$3,918
Sunrise	- 28,965
Birch Hill and West	- 84,380
175 Estates	- 1,463

The calculation of rate base and the revenues requirement is attached hereto as Exhibit A.

B. *Cost of Capital.* CWC and the Staff stipulate to a return on equity of 12.33% and a return on long term debt of 6%, based on a capital structure of .5391% equity and .4609% debt, resulting a cost of capital of 8.92%. The within capital structure assumes an amount of long term debt of \$64,548 payable to Water Industries as of December 31, 1990. The Staff and CWC have not determined the amount of accounts payable to Water Industries as of the date of this Agreement, and agree such amount will be determined in the next rate proceeding.

C. *Revenue Requirement.* CWC and the Staff stipulate to an annual revenue requirement for each of the systems, as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Hidden Valley	- \$5,950
Sunrise	- 14,836
Birch Hill and West	- 39,490
175 Estates	- 8,580

D. *Operation and Maintenance Expenses*

CWC and Staff agree to operation and maintenance expenses, as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Hidden Valley	- \$5,186
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Sunrise	-	9,410
Birch Hill and West	-	26,914
175 Estates	-	8,120

E. *Temporary Rate Recoupment.* CWC and Staff agree to a recoupment period beginning on January 1, 1994 and continuing for 20 consecutive quarters. The Temporary Rate Recoupment Calculation is attached hereto as Exhibit B.

F. *Rate Case Expenses.* CWC and Staff have stipulated to rate case expenses of \$75,446.93 to be recovered by surcharge over a five-year period beginning on January 1, 1994.

III. IMPLEMENTATION OF AN AGREEMENT

CWC and Staff stipulate that tariffs in compliance with this agreement shall be filed no later than ten (10) days after the Commission's Order Approving this Settlement Agreement.

IV. CONDITIONS

A. The making of this Settlement Agreement shall not be deemed in any respect an admission by any party and is entered into for the purpose of resolving matters efficiently and without resort to litigation.

B. This Settlement Agreement is expressly conditioned upon the Commission's acceptance of all of its provisions, without change or condition. If the Commission does not accept it in its entirety, the Settlement Agreement shall terminate and deemed without effect, and shall not constitute any part of the record in the proceeding, and shall not be used for any other purpose.

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IN WITNESS WHEREOF, CWC and the staff have caused this Settlement Agreement to be duly executed in or respective names by their agents, each being fully authorized to do so.

CARLETON WATER COMPANY TRUST Date: 11/22/93 By: Robert H. Carleton

NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION STAFF Date: 11/22/93 By: Amy Ignatius

[Graphic Not Displayed Here]

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NH.PUC*12/07/93*[75291]*78 NH PUC 707*Pennichuck Water Works, Inc.

[Go to End of 75291]

Re Pennichuck Water Works, Inc.

DE 93-138
Order No. 21,053

78 NH PUC 707

New Hampshire Public Utilities Commission

December 7, 1993

Order *NISI* Granting Authorization to Pennichuck Water Works to Discontinue Permanently Its Right, Privilege and Franchise in the Area Known as Shepard Hill.

BY THE COMMISSION:

ORDER

WHEREAS, on July 21, 1993, Pennichuck Water Works, Inc. (Pennichuck) filed a petition to permanently terminate its franchise in a limited area of the Town of Derry known as Shepard Hill; and

WHEREAS, Pennichuck was granted the franchise on December 31, 1987 by Commission Order No. 18,954 but, because no development was ever built, Pennichuck has neither constructed a water supply or a distribution system nor has it provided any other water service within the franchise area; and

WHEREAS, Lamontagne Builders, Inc. of Bedford, New Hampshire, the developer of a subdivision proposed for the franchise area, has agreed to pay Pennichuck for its deferred fran-

Page 707

chise acquisition expenses in the amount of \$8,145.00; and

WHEREAS, the Town of Derry (Town) has indicated in a letter filed with the petition that Lamontagne Builders will construct a water system within the Shepard Hill area, built to Town specifications, and that the Town will assume ownership, operation and maintenance of the system once all Town requirements have been satisfied; and

WHEREAS, the Commission finds that allowing Pennichuck to terminate its right to provide service in Shepard Hill, given the Town's willingness to serve, is in the public good; and

WHEREAS, the public should be afforded an opportunity to respond to this petition; it is hereby

ORDERED, that all persons interested in responding be notified that they may submit their comments or file a written request for a hearing before the Commission, by January 3, 1994; and it is

FURTHER ORDERED, that Pennichuck effect said notification by (1) causing an attested copy of this order to be published no later than December 17, 1993, once in a newspaper having general circulation in the Derry area; (2) providing a copy of this order by first class mail to the Derry Town Clerk and to each property owner of record in the Shepard Hill franchise, postmarked on or before December 17, 1993; and (3) documenting compliance with these notice provisions by affidavits, to be filed with the Commission on or before January 3, 1994; and it is

FURTHER ORDERED *NISI*, that Pennichuck is granted authorization, pursuant to RSA

374:28, to discontinue permanently its right to engage in business as a public utility within the franchise area, effective January 6, 1994, unless the Commission orders otherwise prior to that date; and it is

FURTHER ORDERED, that Pennichuck shall apply any payment received for the cost of obtaining the franchise against the deferred costs being carried on its books.

By order of the Public Utilities Commission of New Hampshire this seventh day of December, 1993.

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NH.PUC*12/07/93*[75292]*78 NH PUC 708*Startel Communications, Inc.

[Go to End of 75292]

Re Startel Communications, Inc.

DE 93-189

Order No. 21,054

78 NH PUC 708

New Hampshire Public Utilities Commission

December 7, 1993

Order *Nisi* Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On October 4, 1993, Startel Communications, Inc., a New Hampshire corporation, d/b/a Telstar Communications, Inc. and d/b/a Telstar Long Distance (Startel) petitioned the New Hampshire Public Utilities Commission (Commission) for authority to do business as a telecommunications utility in the State of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26; and

WHEREAS, interim authority for intrastate competition in the telecommunications industry will allow the Commission to analyze competition during the two-year Trial Period (October 1, 1993 to September 30, 1995) described in Commission Report and Order No. 20,916 (August 2, 1993); and

WHEREAS, Startel has demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public good is served by permitting interim competition by competent telecommunications companies; and

WHEREAS, the public should be provided an opportunity to respond in support of, or in

opposition to this petition; it is hereby

ORDERED, that Startel shall notify all persons interested in responding to this petition that they may submit comments or file a written request for a hearing on this matter before the Commission no later than January 3, 1994; and it is

FURTHER ORDERED, that Startel shall publish an attested copy of the Notice of Conditional Approval attached to this Order once in a newspaper having general statewide circulation, publication to be no later than December 17, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before January 3, 1994; and it is

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FURTHER ORDERED, that pursuant to RSA 363-A:1, et seq. Startel shall pay all assessments levied upon it by the Commission based on the amount of gross revenues received as a result of doing business in New Hampshire; and it is

FURTHER ORDERED, that Startel may offer as a public utility, telecommunication services for the service territory of the entire State of New Hampshire; and it is

FURTHER ORDERED, *NISI*, that Startel hereby is granted authority to offer intrastate long distance services in the State of New Hampshire subject to the following conditions:

1. that the services shall be offered only by approved tariffs, as subsequently amended, and shall be offered only on an interim basis until completion of the Trial Period, at which time the authority granted herein may be revoked or continued on the same or different basis;

2. that Startel shall file tariffs for new services and changes in approved services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;

3. that Startel shall notify the Commission of any change in rates of approved services to be charged the public within one day after offering the service at rates other than the rates on file with the Commission;

4. that Startel is exempt from NH Admin. Rules, Puc 406.03 Accounting Records; Puc 407 Forms Required of All Telephone Utilities; and Puc 409 Uniform System of Accounts for Telecommunications Companies;

5. that Startel shall maintain its books and records in accordance with Generally Accepted Accounting Principles;

6. that Startel shall file each calendar year an Annual Report, consisting of: a Balance Sheet and Statement of Operations and an Information Sheet, reflecting to whom the N.H. Utility Assessment should be mailed and a Listing of Corporate Officers and Titles;

7. that Startel shall be subject and responsible for adhering to all statutes and administrative rules including those related to quality and terms and conditions of service, disconnections, deposits and billing, except those specifically waived herein;

8. that Startel shall be subject to all reporting requirements contained in RSA 374:13-19 and

any filing or reporting requirements imposed by the Commission in this or subsequent orders;

9. that Startel shall compensate the appropriate Local Exchange Company for all originating and terminating access used by Startel pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies;a) b)

10. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

11. that during the Trial Period, Startel shall within 60 days following the end of calendar quarter, report on a confidential basis, except where noted, monthly statistics, for each month the service is offered, the following information:

a. For each intrastate toll service offered:

(1) number of subscribers in NH who have intrastate usage will be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

(2) intrastate minutes of use;

(3) intrastate revenue;

(4) type of access arrangement used;

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(5) for services that use different access arrangements (e.g. SDN) the percentage of use relative to each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

(6) whether the service is residential or business or both. Item a.(6) is not confidential.

b. On an aggregate basis, intrastate minutes and access charges actually paid to each LEC;

c. The intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and for special access arrangements;

d. The number of interstate and intrastate special access arrangements stated by channel capacity;

e. The intrastate conversation minutes of use terminated, reported separately by service, for switched access arrangements, and for special access arrangements;

f. As a percentage of total intrastate conversation minutes of use, the amount of intrastate traffic that was both originated and terminated over switched access;

g. For each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

(1) for non-800 services, originating outbound minutes of use;

(2) for 800 services, terminating inbound minutes of use;

(3) average call duration;

(4) type of access arrangement used. Item g.(4) is not confidential;

h. Percentage Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC); and it is

FURTHER ORDERED, that nothing contained in this Order shall be construed to allow Startel to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that Startel file a compliance tariff before beginning operations in accordance with NH Admin. Rules, Puc PART 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective January 6, 1994, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this seventh day of December, 1993.

STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DE 93-189

Notice of Conditional Approval of Startel Communications, Inc. To Do Business as a Telecommunications Utility in State of New Hampshire

On October 4, 1993, Startel Communications, Inc., (Startel), filed with the New Hampshire Public Utilities Commission (Commission) a petition to do business as a telecommunications utility in the State of New Hampshire, specifically to provide intrastate long distance telecommunications services. Startel, a New Hampshire corporation, is affiliated with Telstar Communications, Inc., an Indiana corporation, and Telstar Long Distance, an Indiana corporation.

In Order No. 21,054, the Commission granted Startel conditional approval to operate as of January 6, 1994 subject to the right of the public and interested parties to comment on

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Startel or its operations before the Order becomes final.

For copies of the petition or Commission order granting conditional approval, please contact the Commission's Executive Director and Secretary at (603) 271-2431, or as noted below. Anyone interested in commenting on Startel's petition to do business in the State should submit written comments no later than January 3, 1994 to:

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission 8 Old Suncook Road Concord, New Hampshire 03301

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NH.PUC*12/07/93*[75293]*78 NH PUC 711*GTE NH

[Go to End of 75293]

Re GTE NH

Additional respondent: GTE Maine

DR 89-010
Order No. 21,055
78 NH PUC 711

New Hampshire Public Utilities Commission

December 7, 1993

Order Addressing GTE's Response to Order No. 21,031.

BY THE COMMISSION:

ORDER

On November 8, 1993, the New Hampshire Public Utilities Commission (Commission) issued Order No. 21,031, which required Contel of NH, Inc., d/b/a GTE NH and Contel of Maine, Inc., d/b/a GTE ME (collectively GTE) to produce a study comparing actual rates charged to customers since January 20, 1992 to the currently approved NET rates using one second timing and further to submit a proposal recommending a resolution of GTE's inability to comply with Order No. 20,082 including a recommendation on how to compensate customers who have been overcharged for toll calls since January 20, 1992, all to be filed no later than November 22, 1993.

WHEREAS, on November 22, 1993, GTE submitted a letter by its attorney asserting that it should not be required to make refunds to customers because 1) no overcharges occurred and 2) GTE had the option to make its March 17, 1992 effective on March 17, 1993 pursuant to RSA 378:6 in that the Commission did not issue a final order by March 17, 1993, but GTE elected not to so out of deference to and as an accommodation to the Staff's and the Commission's heavy workload; and

WHEREAS, the letter proposed a solution to GTE's inability to comply with Order No. 20,082; and

WHEREAS, GTE proposed to conduct a study using actual GTE bill samples compared to a model of the NET one-second system to determine the percentage difference between one-second timing and GTE's proposed solution; and

WHEREAS, the letter stated that GTE had not yet commenced the study required by Order No. 21,031 because it was not given enough time and it believed that such a study would be imprudent if it were not likely to lead to a tariff that would be approved by the Commission; and

WHEREAS, the Commission will consider GTE's failure to submit the study required by Order No. 21,031 as a motion for reconsideration rather than failure to comply with a Commission Order; and

WHEREAS, GTE reserved its rights with respect to the tariff filed on March 17, 1992,

including the right to implement the six-second billing format, the right to a hearing with respect to its March 17, 1992 tariff filing, and the right to file a Motion for Rehearing with respect to Order No. 21,031; and WHEREAS, although GTE requested Commission action on its November 22, 1993 filing by the Commission meeting on November 29, 1993 so that it could maintain its rights to request reconsideration of the Commission's action, and the Commission addressed this matter, including the issue of reconsideration rights, at its November 29, 1993 meeting as requested, GTE nevertheless filed on November 24, 1993 a Motion for Hearing, Rehearing and Other Relief, and in doing so failed to conform to the filing requirements contained within N.H. Admin. Rules, Puc 204.03; it is hereby

ORDERED, that GTE's informal request for reconsideration contained in its November 22, 1993 filing regarding the study required by Order No. 21,031 is denied and that GTE is required to file the study no later than 45 days from the date of this order; and it is

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FURTHER ORDERED, that GTE is encouraged to perform the additional study outlined in its November 22, 1993 letter comparing rates charged under GTE's proposed solution and those charged using a one-second timing system; and it is

FURTHER ORDERED, that GTE's rights are reserved regarding its right to file a motion for reconsideration on either this order or Order No. 21,031 for 20 days from the date of this Order; and it is

FURTHER ORDERED, that the Motion for Hearing, Rehearing and Other Relief filed by GTE on November 24, 1993 shall be considered by the Commission as a response to this Order as well as Order No. 20.031, unless GTE notifies the Commission otherwise; and it is

FURTHER ORDERED, that GTE may not put rates filed on March 17, 1992 into effect pursuant to RSA 378:6 because the rates are not in compliance with Order No. 20,082 and therefore the suspension and review standards contained within that statute are inapplicable; and it is

FURTHER ORDERED, that GTE review the rules of the Commission to ensure that future filings are made in conformance with the rules of the Commission.

By order of the New Hampshire Public Utilities Commission this seventh day of December, 1993.

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NH.PUC*12/08/93*[75294]*78 NH PUC 712*Connecticut Valley Electric Company

[Go to End of 75294]

Re Connecticut Valley Electric Company

DR 91-189

Order No. 21,056

78 NH PUC 712

New Hampshire Public Utilities Commission

December 8, 1993

Order *Nisi* Approving Request to Delay Implementation of Retail Rate Redesign.

BY THE COMMISSION:

ORDER

On November 29, 1993 Connecticut Valley Electric Company Inc. (CVEC) filed a letter with the New Hampshire Public Utilities Commission (Commission) stating the status of CVEC's continuing rate design efforts and requesting that implementation of the third phase of rate redesign be postponed from 1994 as directed by the Commission in Order No. 20,385 to an unspecified date in 1995; and

WHEREAS, CVEC represents that it and the Staff agree it is most consistent with prior objectives to give customers time to react to the seasonal rate differential without an additional increase in the differential; and

WHEREAS, the issue of the redesign of the wholesale rate on a marginal cost basis consistent with the marginal cost basis of the CVEC retail rates, is being litigated in DE 92-082, CVEC's Least Cost Integrated Plan and in DR 93-151, its 1994 Conservation and Load Management Filing; it is therefore

ORDERED *NISI*, that implementation of the third phase of CVEC's retail rate redesign be delayed until 1995; and it is

FURTHER ORDERED, that before September 30, 1994 CVEC file with the Commission its proposal for the timing of the implementation of the last phase of its rate redesign with supporting testimony that demonstrates the continued advisability of adopting the third phase of the rate redesign in light of then current costs, customer responses and this Commission's findings in DE 92-082 and DR 93-151 regarding the price signals provided by the wholesale and retail rates; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules PUC 203.01, the company cause an attested copy of this Order *Nisi* to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than December 13, 1993 and it is to be documented by affidavit filed with this office on or before December 23, 1993; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than December 23, 1993; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective December 28, 1993, unless the Commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this eighth day of December, 1993.

=====

NH.PUC*12/10/93*[75295]*78 NH PUC 713*AT&T Communications of New Hampshire, Inc.

[Go to End of 75295]

Re AT&T Communications of New Hampshire, Inc.

DE 93-226
Order No. 21,057
78 NH PUC 713

New Hampshire Public Utilities Commission

December 10, 1993

Order *Nisi* Approving AT&T Prepaid Card Service.

BY THE COMMISSION:

ORDER

On November 10, 1993, AT&T Communications of New Hampshire, Inc. (AT&T) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to introduce AT&T Prepaid Card Service; and

WHEREAS, this service provides an outbound communication service for calls charged to an AT&T Prepaid Card with an available service balance; and

WHEREAS, the customer will access this service by dialing a 1-800 number and entering a valid prepaid card number. After the call is completed the remaining balance will be announced; and

WHEREAS, the rate for this prepaid service is approximately sixty cents per minute; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED, *MSI*, that the following tariff pages for NHPUC No.4 - AT&T Long Distance Services are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Table of Contents Section 2 - 2nd Revised Page 6
Section 2 - Original Pages 21 through 24;

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, AT&T cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than December 20, 1993 and is to be documented by affidavit filed with this office on or before January 4, 1994; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than January 4, 1994; and it is

FURTHER ORDERED, that AT&T file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective January 10, 1994, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this tenth day of December, 1993.

=====

NH.PUC*12/13/93*[75296]*78 NH PUC 713*Public Service Company of New Hampshire

[Go to End of 75296]

Re Public Service Company of New Hampshire

Additional respondents: Small Power Producers

DR 93-179
Order No. 21,058
78 NH PUC 713

New Hampshire Public Utilities Commission

December 13, 1993

Negotiations Regarding Long Term Rate Orders; Report and Order Addressing Commission Authority, Confidentiality and Other Procedural Matters.

Appearances: Rath, Young, Pignatelli and Oyer by M. Curtis Whittaker, Esq. and Gerald Eaton, Esq. for Public Service Company of New Hampshire; Castaldo and Malmberg by David Marshall, Esq. for New Hampshire Timberland Owners Association; David Harrigan, Esq. for Society for the Protection of New Hampshire Forests; D. Dickenson Henry, Jr. for

Page 713

Audubon Society of New Hampshire; Armond Cohen, Esq. for Conservation Law Foundation; Broderick and Dean by Mark Dean Esq. for New Hampshire Electric Cooperative, Inc.; Backus,

Meyer and Solomon by Robert Backus, Esq. for Campaign for Ratepayers Rights; Kenneth Colburn for Business and Industry Association; Richard Walker for Town of Springfield, New Hampshire; Donald Ferren for Southern New Hampshire Resource Conservation and Development Area; Michael B. Jenish for PREMCO, Inc.; Robert Berti for North Country Procurement, Inc.; Brooks McCandlish for Society of American Foresters, Granite State Division; Michael Lambert for Northeast Forest Users Coalition; James Anderson, Esq. for Office of Consumer Advocate; Amy L. Ignatius, Esq. for the Staff of the New Hampshire Public Utilities Commission

BY THE COMMISSION:

I. PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission) on October 15, 1993 issued an order of notice initiating a docket to consider the status of negotiations between Public Service Company of New Hampshire (PSNH) and thirteen small power producers. The docket is the result of a provision within the Rate Agreement between PSNH and Northeast Utilities, as defined in RSA 362-C:2 I, and as accepted by the Commission in DR 89-244, *Re Northeast Utilities/Public Service Company of New Hampshire*, 114 PUR 4th 385 (1990), under which Northeast Utilities is required to use its best efforts to renegotiate the rates of the following thirteen small power producers: Briar Hydro/Essex Hydro, Errol Dam, Greggs Falls, Pembroke Hydro, Pennacook Upper Falls (the five hydropower SPPs), Alexandria Power, Bio-Energy Corporation, Bridgewater Steam Power, TIMCO, Hemphill Power and Light, Bethlehem Pinetree Power, Tamworth Pinetree Power, Whitefield Power (the eight woodburning SPPs) (collectively the SPPs).

On October 1, 1993, PSNH filed a status report on the SPP negotiations. PSNH stated that it had reached an agreement in principle with the five hydropower SPPs and four of the eight woodburning SPPs.

The Commission granted the following requests for intervention: New Hampshire Timberland Owners Association; Society for the Protection of New Hampshire Forests; Audubon Society of New Hampshire; New Hampshire Electric Cooperative, Inc.; Campaign for Ratepayers Rights; Conservation Law Foundation; Business and Industry Association; Town of Springfield, New Hampshire; Northeast Forest Users Coalition; Southern New Hampshire Resource Conservation and Development Area; PREMCO, Inc.; North Country Procurement, Inc.; and the Society of American Foresters, Granite State Division.

The Commission also adopted a limited procedural schedule by which PSNH would file on November 12, 1993 an initial proposal on the structure and scope of the docket; intervenors and the Staff would respond to the PSNH proposal by November 24, 1993; PSNH would file on December 8, 1993 the final agreements with the hydropower and woodburning small power producers followed by supporting testimony by December 22, 1993. The Commission granted the parties and Staff an opportunity to file additional comments if after review of the final agreements on December 8, 1993, the issues appeared to be different from those that were apparent on the basis of PSNH's November 12, 1993 proposal.

On December 8, 1993 PSNH filed a letter stating it expected final agreements with the five hydropower SPPs to be filed within a few days, but final agreements with any of the

woodburning SPPs would not be filed for some time. PSNH stated it would file a motion for extension of time to file agreements with the four woodburning producers with which it is actively negotiating and a motion for protective treatment for the terms of the agreements with the hydropower SPPs. PSNH made no representations regarding the likelihood of filing agreements with remaining four woodburning SPPs with whom negotiations have ceased.

For a full procedural history, *see* Report and Order No. 21,037 (November 18, 1993).

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II. POSITIONS OF PARTIES AND STAFF

A. *Structure of Docket and Issues to Be Explored*

PSNH, most of the intervenors and the Staff filed proposals or comments regarding the scope of the proceeding. The bulk of the comments concern the number of dockets and the issues to be explored by the Commission. These issues will be addressed at a later date and are not recounted in this order.

B. *Legal Authority*

Although it was not one of the issues identified for scoping comments, the New Hampshire Timberland Owners Association, the Audubon Society, the Town of Springfield and North Country Procurement, Inc. argued in their responses to PSNH's proposal on scope that the Commission should first hear evidence on or otherwise determine its legal authority to consider amendments to the long term rate orders issued by the Commission. These parties argued that the Commission should take no further action in this docket until a determination of its legal authority is complete.

The Office of Consumer Advocate argued that the Commission has the authority to change the rate orders. All other comments on scope were silent on this issue.

C. *Confidentiality*

The Audubon Society, New Hampshire Timberland Owners Association, Town of Springfield and Campaign for Ratepayers Rights argued that the full terms, rates and conditions of all agreements between PSNH and the hydropower SPPs and the woodburning SPPs should be made publicly available. The Office of Consumer Advocate argued that at a minimum, it should have access to the full information. Although PSNH has not yet filed a request for confidential treatment of any of the terms, throughout its proposal on scope of the docket is the suggestion that it will seek protective treatment for some rates or terms of the hydropower and woodburning SPP agreements.

III. COMMISSION ANALYSIS

We are not yet prepared to make a determination on all of the issues presented in the filings by the parties and Staff. We will, however, address three issues at this time: the Commission's authority to amend the long term rate orders, confidentiality of rates, terms and conditions, and what we anticipate the next steps of this proceeding to be.

We find no merit to the arguments of New Hampshire Timberland Association and others that the Commission lacks the authority to consider amendments to the long term rate orders. We

will not agree to suspend further action in this case as requested. As in any matter, a party is free to challenge the Commission on appeal regarding our authority and whether we may have exceeded the limits of authority granted by the Legislature. We will not, however, stop the proceedings for a protracted debate on the Commission's right to proceed in this matter.

We reach this conclusion on numerous factors, including the language of the original rate orders, our authority under New Hampshire statutes including, but not limited to, RSA Chapter 362- A, RSA 365:5, RSA 365:28, RSA 374:4 and RSA 378:28 and the fact that we will be considering agreements entered into between PSNH and the hydropower SPPs and four of the woodburning SPPs, as opposed to amendments being forced upon these nine SPPs against their will. If the parties to the negotiations believed we had no authority, it is doubtful they would have filed amendments to the rate orders with the Commission for our approval.

We stated at the hearing on November 3, 1993 that we would not consider confidentiality in the abstract, and instead would wait for a particular request for protective treatment to be filed by PSNH or other party. In reviewing the comments on scope, however, we find the arguments of the Audubon Society and others somewhat persuasive, that is, that until they are able to see the full terms of the agreements they are not able to determine whether the dockets should be joined. We too are faced with difficulty in determining how to structure the docket until the issue of confidential treatment is resolved.

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For that reason, we will ask for submission of arguments on confidential treatment prior to determining the scope of the rest of the proceeding. We believe that it would be appropriate to receive the proposal of PSNH on this matter, and comments of any other party or interested observer which might seek protective treatment of hydropower and woodburning SPP rates, terms and conditions. Such filings should be made no later than Friday, December 17, 1993. Any other party, Staff or interested observer which would like to address why rates, terms and conditions should not be confidential should submit responses no later than Thursday, December 23, 1993. Once again, we encourage parties to group their interests in making joint filings on this matter. Any party which has already presented its views regarding confidentiality need not make an additional filing.

After review of the filings regarding confidentiality, we will address all remaining issues on the scope of the docket, including the number of proceedings and issues to be considered.

At our December 6, 1993 public meeting, we announced that we are designating the five hydropower SPPs and the four "settling" woodburning SPPs as mandatory parties to this proceeding. We continue to be told that the hydropower SPPs are entering into final agreements with PSNH and that PSNH has reached agreement "in principle" with four of the woodburning SPPs. These nine SPPs, therefore, should be considered joint proponents of the agreements, with PSNH. While we will not force them to file testimony, we encourage them to do so, to expand our record as to why they believe the agreements are appropriate.

Finally, while we have not yet received a motion for extension of time in which to file the final terms with the four "settling" woodburning SPPs, we must express our frustration with all involved that the filing schedule has not been met. This was a schedule negotiated by the parties

and Staff, and was ordered by us only after the representation of those involved that it could be met. Were this the first delay in the long protracted process of negotiations, we would be more charitable in reading PSNH's explanation of the delay. Any motion for an extension of time shall be made no later than Monday December 13, 1993. In order to expedite the process, any party seeking to respond to the motion must respond no later than Friday December 17, 1993. We will of course review whatever is filed, but feel it is appropriate to indicate our preliminary thoughts are to deny any request that extend for any longer than December 22, 1993, which is two weeks from the original filing date of December 8, 1993. Supporting testimony is already due to be filed on that date, and absent persuasive arguments to the contrary, we would expect such testimony to be filed on that date as well.

Our order will issue accordingly.

Concurring: December 13, 1993

ORDER

Based on the foregoing report which is made a part hereof, it is hereby

ORDERED, that Public Service Company of New Hampshire (PSNH) and any other proponent of protective treatment shall file, no later than December 17, 1993 arguments in favor of protective treatment over any rate, term, or condition of agreements between PSNH and any small power producer; and it is

FURTHER ORDERED, that all parties and Staff which want to be heard in opposition to arguments in favor of protective treatment shall file responses no later than Thursday, December 23, 1993; and it is

FURTHER ORDERED, that PSNH shall file its motion for extension of time no later than Monday, December 13, 1993 and all parties and Staff wishing to be heard in favor or in opposition to the motion for extension of time file responses no later than Friday, December 17, 1993; and it is

FURTHER ORDERED, that Briar Hydro/Essex Hydro, Errol Dam, Greggs Falls, Pembroke Hydro, Pennacook Upper Falls, Alexandria Power, Bio-Energy Corporation, Bridgewater Steam Power and TIMCO are hereby made mandatory parties to this proceeding.

By order of the New Hampshire Public Utilities Commission this thirteenth day of December, 1993.

=====

NH.PUC*12/14/93*[75297]*78 NH PUC 717*EnergyNorth Natural Gas, Inc.

[Go to End of 75297]

Re EnergyNorth Natural Gas, Inc.

DF 93-238
Order No. 21,059

78 NH PUC 717

New Hampshire Public Utilities Commission

December 14, 1993

Increase in Short-Term Borrowing Level and Credit Limit of Fuel Inventory Trust.

BY THE COMMISSION:

ORDER

WHEREAS, EnergyNorth Natural Gas, Inc., (the "company") a corporation duly organized and existing under the laws of the State of New Hampshire, with its headquarters in Manchester, New Hampshire, is engaged in the business of purchasing, distributing, and selling natural gas, liquified natural and petroleum gas, in the twenty-seven (27) cities and towns in southern and mid-central New Hampshire, having filed, on December 2, 1993 a request for an approval of an increase in short-term borrowing authority and an increase in credit limit of fuel inventory trust; and

WHEREAS, the aggregate long-term indebtedness as of September 30, 1993, excluding the portion due in one year was \$32,174,613; the current portion of that long-term debt due within one year is \$3,083,189; and

WHEREAS, the authorized short-term debt limit for the company is currently at \$11,200,000 approved in Commission Order No. 20,551 in Docket DF 92-134; and

WHEREAS, one of the purposes of the requested increase in the short-term debt level is to support the estimated \$600,000 environmental clean-up costs the company will incur for its Gas Street, Concord property and for the higher short-term debt level required due to the typical working capital needs during the winter heating season, higher receivable collection delays and improvements; and

WHEREAS, the current credit limit of the company's Fuel Inventory Trust and related Revolving Credit Agreement is at \$7,000,000; and

WHEREAS, the reason for this requested increase in the Fuel Inventory Trust and Revolving Credit Agreement is to support higher demand and transportation charges brought about as a result of FERC Order 636 and the company's plans to purchase additional storage, for the Londonderry conversion, as part of the restructuring that continues to take place as a result of the aforementioned FERC Order; it is hereby

ORDERED, that EnergyNorth Natural Gas, Inc. be, and hereby is, granted authorization to increase its short-term debt level from \$11,200,000 to a maximum of \$12,500,000; and it is

FURTHER ORDERED, that EnergyNorth Natural Gas, Inc. be allowed to increase its credit limit of the Fuel Inventory Trust and related Revolving Credit Agreement from \$7,000,000 to \$9,500,000.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of December, 1993.

=====

NH.PUC*12/14/93*[75298]*78 NH PUC 717*Investigation into New England Telephone's Long Distance Dialing Plan for New Hampshire

[Go to End of 75298]

Re Investigation into New England Telephone's Long Distance Dialing Plan for New Hampshire

DE 93-003

Order No. 21,060

78 NH PUC 717

New Hampshire Public Utilities Commission

December 14, 1993

Order Clarifying Order No. 21,046 and Granting Approval of NET's Compliance Tariff for Interchangeable Numbering Plan Area (INPA).

BY THE COMMISSION:

ORDER

The earlier order in this case, Order No. 20,938, dated August 20, 1993, stated that the Public Utilities Commission (Commission) would issue final approval of the dialing change considered in Order 20,938 only after certain data regarding the intraLATA toll blocking option had been submitted, reviewed, and found satisfactory; and

WHEREAS, Commission Order No. 21,046, dated November 29, 1993, was based on review and analysis of the submitted data; and WHEREAS, Order No. 21,046 established the final parameters for implementing the changes associated with INPA in NET's service area; and

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WHEREAS, Order No. 21,046 was not specifically identified as the final order contemplated in Order 20,938; and

WHEREAS, Order No. 21,046 was intended to be the final order contemplated in Order No. 20,938; and

WHEREAS, on December 1, 1993, NET filed its compliance tariff pursuant to Order No. 21,046; and

WHEREAS, the Commission has previously approved the reasonableness of the rate for a service order installation charge of \$9.22 for residence and \$15.03 for business customers, in DE 90-150, Order No. 20,494 and again in DE 91-105, Order No. 20,106; it is therefore

ORDERED, that, effective this date, Order No. 21,046 is a final order for purposes of

reconsideration and appeal; and it is

FURTHER ORDERED, that the following tariff revisions are approved as filed: NHPUC - No. 75, Part A, Section 5 - Tenth Revision of Page 29, Section 6 - Fourth Revision of Page 9; and it is

FURTHER ORDERED, that installation charges for the blocking option shall be waived until January 10, 1995, and after that date no installation charge shall apply when the blocking option is installed within 60 days of the installation of a network access line.

By order of the Public Utilities Commission of New Hampshire this 14th day of December, 1993.

=====

NH.PUC*12/14/93*[75299]*78 NH PUC 718*Claremont Gas Corporation

[Go to End of 75299]

Re Claremont Gas Corporation

DR 92-020

Order No. 21,061

78 NH PUC 718

New Hampshire Public Utilities Commission

December 14, 1993

Order Approving Settlement Agreement and Granting Rate Increase.

Appearances: Ransmeier & Spellman by Dom S. D'Ambruoso, Esq. for Claremont Gas Corporation, Kenneth Traum for the Office of the Consumer Advocate, E. Barclay Jackson, Esq. for the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

ORDER

On January 27, 1992, Claremont Gas Corporation (Claremont) filed a Notice of intent to file rate schedules requesting an increase of approximately 202% over existing revenues. Extensive investigation, audits, data requests and responses, settlement conferences, and public hearings on temporary rates, emergency rates, and permanent rates ensued thereafter.

On October 5, 1993, Claremont, the Staff of the New Hampshire Public Utilities Commission (Commission), and the Office of the Consumer Advocate (OCA) submitted a Settlement Agreement for consideration by the Commission. Claremont's failure to file a signed management contract in a timely manner caused a delay in the Commission's deliberations.

Claremont filed its management contract in November 1993, Staff reviewed the contract and Staff and Claremont resolved the several issues regarding the contract on December 10, 1993.

Because this case has been pending for a considerable length of time, the Commission will expedite the resolution of this matter by issuing this Order without attaching its usual Report. The Report will issue directly. Upon consideration of the foregoing and the testimony and exhibits presented; it is hereby

ORDERED, that the Settlement Agreement entered into by Staff, Claremont, and the OCA, attached hereto, is approved; and it is

FURTHER ORDERED, that tariff issues that remain outstanding shall be resolved outside this rate case and that the rate design hereby approved shall go into effect on the basis of the current tariff pages; and it is

FURTHER ORDERED, that the rate design shall go into effect on a service rendered basis as of the issuance date of this Order; and it is

FURTHER ORDERED, that on or before January 3, 1994, Staff and Claremont shall file a report as to the progress made with respect to Claremont's customer assistance issues identified by the Commission as deficient.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of December, 1993.

=====

NH.PUC*12/14/93*[75300]*78 NH PUC 719*Springwood Hills Water Company

[Go to End of 75300]

Re Springwood Hills Water Company

DE 90-051

Order No. 21,062

78 NH PUC 719

New Hampshire Public Utilities Commission

December 14, 1993

Reduction in Permanent Rates.

BY THE COMMISSION:

ORDER

On March 20, 1990, Springwood Hills Water Company filed a petition to provide water service to a limited area in the Town of Londonderry, New Hampshire and to establish rates therein; and

WHEREAS, on November 9, 1990 the Commission issued Report and Order 19,982 granting a conditional franchise to Springwood Hills Water Company and setting temporary rates at \$160.00 per year (\$40.00 per quarter) per customer; and

WHEREAS, on May 17, 1991, the Commission issued Report and Order 19,981, granting a permanent franchise and rates based on a Stipulated Agreement entered into by Staff and Springwood Hills Water Company, and

WHEREAS, on August 31, 1992, Springwood Hills Water Company requested authority to recover unbilled amounts prior to November 1, 1992; and

WHEREAS, Springwood Hills Water Company contended that it did not bill any customers for service rendered due to ongoing attempts to sell the water system; and

WHEREAS, on September 22, 1992 the Commission issued Order NISI Number 20,609 granting authority to Springwood Hills Water Company to recover the unbilled amounts through a surcharge; and

WHEREAS, at the request of the Springwood Hills Water Company customers, a public meeting was held on November 9, 1992, in Londonderry, New Hampshire; and

WHEREAS, based on information presented to the Commission at the public meeting regarding the rate used to calculate the tax liability of Springwood Hills Water Company, the Commission requested Staff to make further discovery and to recalculate the schedules reducing the annual revenue requirement of \$46,259 to the proper amount; and

WHEREAS, on November 23, 1993, the Commission issued Order No. 20,675 which rescinded the surcharge previously authorized in Order No. 20,609, and further instructed the parties to meet in an attempt to revise the Stipulated Agreement and to explore the options available to Springwood Hills Water Company concerning the sale of the water system to the customers or to another water utility; and

WHEREAS, the Staff and Springwood Hills Water Company conferred several times in an attempt to revise the Stipulated Agreement while Springwood Hills Water Company pursued the sale of the water system; and

WHEREAS, it has now been confirmed that Springwood Hills Water Company is an S-Corporation, which has no federal tax liability, and recalculated the annual revenue requirement to \$34,925, as shown in the attached schedules, which results in Springwood Hills Water Company's rates to be reduced from \$52.00 to \$39.00 per month; and

WHEREAS, the public should be offered an opportunity to file comments and/or request an opportunity to be heard on this petition; it is hereby

ORDERED, that Springwood Hills Water Company effect said notification by: (1) Causing an attested copy of this order to be published no later than December 21, 1993, once in a newspaper having general statewide circulation and once in a newspaper having general circulation in the Londonderry area; (2) Providing a copy of this order to the Londonderry Town Clerk, by First Class U.S. mail, postmarked on or before December 21, 1993; (3) Providing a copy of this order by First Class U.S. mail to each customer of the system, postmarked on or before December 21, 1993; and (4) Documenting compliance with these notice provisions by affidavit(s) to be filed with the Commission on or before December 28, 1993; and it is

FURTHER ORDERED, that all persons interested in responding to this petition must submit their comments, or a written request for a hearing, to the Commission no later than December 31,

1993, and it is

FURTHER ORDERED, *NISI*, that Springwood Hills Water Company prepare and sub-

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mit to the Commission compliance tariff pages revised to reflect the corrected monthly rate to customers of \$39.00, effective for bills rendered on or after January 1, 1994.

By order of the New Hampshire Public Utilities Commission this fourteenth day of December, 1993.

[TABLE TO BE SHOT] [TABLE A]

SPRINGWOOD HILLS WATER COMPANY [TABLE A] DE 90-015 REVENUE REQUIREMENT

MJN 011/18/93STIPULATION MJNA,SPRGREV3EXHIBIT 1
 RATE BASE (EX 2)156,250
 RATE OF RETURN11.90% -----
 REVENUE INCREASE REQUIREMENT18,594
 OPERATING INCOME (EX 3)(14,715) -----
 DEFICIENCY33,309
 TAX EFFECT (EX 1, SCH 2)1,617 -----
 REVENUE INCREASE REQUIREMENT34,925 =====

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[TABLE TO BE SHOT] [TABLE B]

SPRINGWOOD HILLS WATER COMPANY DE 90-015 EFFECTIVE TAX FACTOR
 MJN 011/18/93STIPULATION MJNA,SPRGREV3EXHIBIT 1 TAXFT1-1SCHEDULE 1
 TAXABLE INCOME100.00%
 LESS: BUSINESS PROFITS TAX8.00% -----
 FEDERAL TAXABLE INCOME0.00%
 F.I.T. RATE0.00% -----
 F.I.T.0.00%
 ADD: BUS. PROFITS TAX8.00% -----
 EFFECTIVE TAX RATE8.00% =====
 EFFECTIVE TAX RATE8.00% -----
 PERCENT USED AS A DIVISOR IN DETERMINING THE REVENUE
 REQUIREMENT92.00% ===== SPRINGWOOD HILLS WATER COMPANY DE
 90-015 REVENUE REQUIREMENT INCOME TAX COMPUTATION

MJN 011/18/93STIPULATION MJNA,SPRGREV3EXHIBIT 1 INCTX1-2SCHEDULE 2
TOTAL RATE BASE (EX 2)156,250
EQUITY COMPONENT OF CAPITAL COST11.90% -----
NET INCOME REQUIRED18,594 =====
OVERALL TAX EFFECT (EX 1, SCH 1)1,617 =====
TAX EFFECT - BUS. PROFITS TAX (EX 1, SCH 1)1,617 =====
TAX EFFECT - FEDERAL INCOME TAX (EX1, SCH 1)0 =====

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[TABLE TO BE SHOT] [TABLE C]
SPRINGWOOD HILLS WATER COMPANY DE 90-015 RATE BASE
MJN 011/18/93STIPULATION MJNA,SPRGREV3EXHIBIT 2 RBEX2
TEST YEAR ACTUALS -----
PLANT IN SERVICE (EX 2-1)152,819 LESS: C.W.I.P.0 -----
TOTAL PLANT IN SERVICE152,819
LESS: ACCUMULATED DEPRECIATION (EX 2-1)12,216 CONTRIBUTIONS IN AID
OF CONSTRUCTIONS0 -----
NET PLANT IN SERVICE140,603
ADD WORKING CAPITAL: TOTAL O&M EXPENSES (EX 3)9,549
TIMES 12.33% (45 DAYS/365)12.33% -----
CASH WORKING CAPITAL1,177
ADD: MATERIALS & SUPPLIES0 PREPAYMENTS0 UNAMORTIZED FRANCHISE
EXPENSES14,470 -----
TOTAL WORKING CAPITAL15,647 -----
RATE BASE156,250 =====

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[TABLE TO BE SHOT] [TABLE D]
SPRINGWOOD HILLS WATER COMPANY DE 90-015 FIXED CAPITAL
DEPRECIATION SCHEDULE
MJN 011/18/93STIPULATION MJNA,SPRGREV3EXHIBIT 2 DEPRX2-1SCHEDULE 1
BEGINNINGDEPRDEPRDEPRDEPRDEPR ITEMBALANCERATE1987198819891990
----- LAND13,773 WELLS56,3232.00%5631,1261,1261,126
PUMPS17,8305.00%446 892 892 892 STRUCTURES34,8922.50%436872872872
TANKS23,0002.00%230460460460 MAINS7,0012.00%70140140140 SERVICES02.00%0000

METERS05.00%0000 ----- TOTALS152,8191,7453,4903,4903,490

=====

YEAR-END DEPR RESERVE12,216 =====

BEGINNINGAMORT1990 BALANCERATE198719881989ADDS1990

----- FRANCHISE EXPENSES3,3575.00%84168168468

12,000=====

UNAMORTIZED FRANCHISE EXPENSES3,2733,1052,93714,93714,470 =====

[TABLE TO BE SHOT] [TABLE E]

SPRINGWOOD HILLS WATER COMPANY DE 90-015 OPERATING INCOME STATEMENT YEAR ENDING MARCH 31, 1990

MJN 011/18/93STIPULATION MJNA,SPRGREV3EXHIBIT 3 INCSTEX3

12 MTHSPROFORMATEST YEARPROPOSEDTEST YEAR ENDED 03/9REFADJUSTMENPROFORMAREFINCOMEPROFORMA

OPERATING REVENUES ----- REVENUES00EX 134,92534,925 OTHER

OPERATING INCOME000 ----- TOTAL

REVENUES000034,92534,925

OPERATING EXPENSES -----

PRODUCTION EXPENSES2,774EX 3-12,0954,86904,869 MAINTENANCE4004000400

CUSTOMER ACCOUNTING8008000800 ADM & GEN'L EXPENSES:

INSURANCE200200200 OFFICE EXPENSE9059050905 ACCOUNTING &

PROFESSIONAL FEES2,200EX 3-102,2002,200 PUC ASSESSMENT4040040 FRANCHISE

FEES135135135 MANAGEMENT FEES0EX 3-1000 -----

TOTAL O&M EXPENSES7,4542,0959,54909,549

TAXES: F.I.T.00EX1-200 PROPERTY1,2081,2081,208 STATE00EX1-21,6171,617

OTHER (FICA ON PAY INC)000 AMORTIZATION-STUDY0EX 2-1000

DEPRECIATION3,4903,4903,490 AMORTIZATION-FRANCHISE EX468468468

----- TOTAL EXPENSE12,6202,09514,7151,61716,332

----- NET OPERATING

INCOME(12,620)2,095(14,715)33,30918,594

=====

[TABLE TO BE SHOT] [TABLE F]

SPRINGWOOD HILLS WATER COMPANY DE 90-015 PROFORMA ADJUSTMENTS

MJN 011/18/93STIPULATION MJNA,SPRGREV3EXHIBIT 3 ADJEX3-1SCHEDULE 1

PROFORMA ADJUSTMENTS: ----- PROFORMA

ADJUSTMENT-WATER TESTS Water Supply & Pollution Control Well
test once every 3 years475 Company has two wells-Staff uses one.1 ----- Total Cost of
Tests475 divided by 3 years3 Proforma adjustment-wells158

Monthly water quality test per system8 12 months12 ----- Proforma adjustment-water
tests96 ----- 254

DES Permit Fee590 ----- PROFORMA ADJUSTMENT-WATER TESTING844

PROFORMA ADJUSTMENTS-PRODUCTION EXPENSES
Electricity \$2773,76 for 19892,774 Average Customers51 ----- Per customer cost54
Customers at 12/31/8974 ----- 4,025 PROFORMA ADJUSTMENT-PRODUCTION
EXPENSES1,251 ----- 2,095 =====

PROFORMA ADJUSTMENTS-ACCOUNTING & PROFESSIONAL FEES
..... Bookkeeping, etc.1,040 Corporate Tax Returns, etc.460 PUC Annual
Report400 Legal300 ----- 2,200

Staff does not include on-going legal expenses1,900 -----

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[TABLE TO BE SHOT] [TABLE G]

SPRINGWOOD HILLS WATER COMPANY DE 90-015 RATE CALCULATION

MJN 011/18/93STIPULATION MJNA,SPRGREV3EXHIBIT 4 RATEX4

REVENUE REQUIREMENT34,925

CUSTOMER BASE AT TOTAL BUILD OUT74 -----

ANNUAL CUSTOMER RATE472 =====

MONTHLY BILLING39

=====

NH.PUC*12/15/93*[75301]*78 NH PUC 726*New England Telephone Company

[Go to End of 75301]

Re New England Telephone Company

DR 93-209

Order No. 21,063

78 NH PUC 726

New Hampshire Public Utilities Commission

December 15, 1993

Order Approving Operational Trial of ISDN Primary Service.

 BY THE COMMISSION:

ORDER

On November 15, 1993 New England Telephone Company (Company) filed a letter with the New Hampshire Public Utilities Commission (Commission) stating its intent to provide ISDN Primary Service to one customer before tariffed rates are approved as an operational trial of the service in New Hampshire.

WHEREAS, the proposed tariff for ISDN Primary Service was filed by NET on October 29, 1993 for effect November 28, 1993 and suspended on November 22, 1993 by Order No. 21,040; and

WHEREAS, the purpose of the trial is to ensure the operational readiness of the support systems and to provide installation maintenance technicians with ISDN Primary Service field experience in advance of the tariffed offering; and

WHEREAS, such an operational trial will afford NET the opportunity to identify unique network provisioning and operational problems that may arise with the introduction of this new service and take corrective action before the service becomes generally available under tariff; and

WHEREAS, the customer has agreed to pay the rates filed for approval on October 29, 1993 and will be notified that rates and conditions will be modified if required, to conform with the ultimate resolution of this docket; and

WHEREAS, the Commission finds an operational trial for ISDN Primary Service in the public good during the period which the tariff is suspended; it is hereby

ORDERED, that the proposed operational trial for ISDN Primary Service is approved.

By order of the New Hampshire Public Utilities Commission this fifteenth day of December, 1993.

=====

NH.PUC*12/15/93*[75302]*78 NH PUC 727*Chichester Telephone Company

[Go to End of 75302]

Re Chichester Telephone Company

Additional respondents: Kearsarge Telephone Company and Meriden Telephone Company

DR 93-260

Order No. 21,064

78 NH PUC 727

New Hampshire Public Utilities Commission

December 15, 1993

Order Establishing Appropriate Accounting for Post Retirement Benefits Other Than Pensions (PBOP) FAS 106.

BY THE COMMISSION:

ORDER

WHEREAS, in December 1990 the Financial Accounting Standards Board (FASB) released its Statement of Financial Accounting Standards No. 106, Employers Accounting for Postretirement Benefits Other than Pensions, (PBOP); and

WHEREAS, the standard applies to all companies that prepare financial statements in accordance with generally accepted accounting principles (GAAP), i.e., all publicly traded companies and others whose lenders require statements; and

WHEREAS, Chichester Telephone Company, Kearsarge Telephone Company and Meriden Telephone Company (the Companies) were signatory to a Stipulation Agreement signed on March 24, 1993, at the Commission, approved by Order No. 20,806; and

WHEREAS, said stipulation set forth the accounting and ratemaking treatment for post-retirement benefits other than pensions and contained in part the following provisions:

1) Utilities shall be allowed to recognize in rates the full accrual of (PBOP) expenses consistent with the accounting principles set forth in FAS 106.

2) The Accumulated Postretirement Benefit Obligation portion of the FAS 106 liability shall be amortized over a 20 year period.

3) The utilities, with the exception of the seven "Special Circumstance Companies" which included the Companies agreed to utilized external trusts for PBOP funding. The seven Special Circumstance Companies will not be required to maintain external funding, and therefore will fund internally.

4) For the Special Circumstance Companies any unfunded amounts included in rates will be treated as a rate base deduction offset by any income tax payments. Any settlement, curtailment, or other change in the company's PBOP plan which results in a substantial decrease in accruals as defined in SFAS 106 shall be amortized as provided by SFAS 106 or pursuant to a Commission approved refund plan; and

WHEREAS, the Companies were granted approval to be "Special Circumstance Companies" following the stipulation guidelines; and

WHEREAS, the Companies filed on November 1, 1993 an implementation plan of the FAS 106 expenses in compliance with Order No. 20,806 in docket DA 92-199; and

WHEREAS, said plan incorporates the following final agreement:

1) The Companies plan to fully implement SFAS 106.

2) The Companies will amortize the Accumulated Post Retirement Obligation (APBO) over a 20 year period.

- 3) Telephone service rates will not be changed as a result of implementing SFAS 106.
- 4) The Companies will utilize the accrual method for SFAS 106 and will expense FAS 106 amounts effective January 1, 1993.

Page 727

5) The Companies will be funding a portion of the SFAS 106 liability to utilized the maximum tax deductibility.

6) The unfunded portion of the SFAS 106 liability will be treated as a rate base reduction and may be partially offset by any increase due to a deferred income tax impact.

7) Any settlement, curtailment, or other change in the Companies PBOP plan which results in a substantial decrease in accruals as defined in SFAS 106 shall be amortized as provided by SFAS 106 or pursuant to a Commission approved refund plan; and

WHEREAS, Staff has reviewed and discussed with the Companies their implementation plan; it is hereby

ORDERED, that the Companies implement the provision of SFAS 106 as detailed above; and it is

FURTHER ORDERED, that the Companies shall file a report annually which reports the status of the external fund.

By order of the New Hampshire Public Utilities Commission this fifteenth day of December, 1993.

=====

NH.PUC*12/15/93*[75303]*78 NH PUC 728*ATC Long Distance

[Go to End of 75303]

Re ATC Long Distance

DE 93-242

Order No. 21,065

78 NH PUC 728

New Hampshire Public Utilities Commission

December 15, 1993

Order *Nisi* Approving EasyAnswersm Service.

BY THE COMMISSION:

ORDER

On December 1, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from ATC New Hampshire, Inc. (ATC), a subsidiary of Advanced Telecommunications Corporation, d/b/a ATC Long Distance, for authority to offer its EasyAnswersm service; and

WHEREAS, this service provides term and/or volume and group discounts in conjunction with toll, calling card and voice messaging services; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED NISI, that the following tariff pages are approved for ATC New Hampshire, Inc., NH.P.U.C. No. 1:

- 5th Revised Page No. 1.1
- 3rd Revised Page No. 3
- 2nd Revised Page No. 31
- Original Page No. 31.1
- Original Page No. 31.1A
- Original Page No. 31.1B
- Original Page No. 40.1A
- Original Page No. 40.1B
- Original Page No. 40.1C
- 1st Revised Page No. 40.2
- Original Page No. 40.2A
- Original Page No. 40.2B
- Original Page No. 40.2C
- Original Page No. 40.2D
- Original Page No. 40.2E
- 1st Revised Page No. 40.3
- 1st Revised Page No. 40.4

; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, ATC cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that

portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than December 27, 1993 and is to be documented by affidavit filed with this office on or before January 11, 1994; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than January 11, 1994; and it is

FURTHER ORDERED, that ATC file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective January 14, 1994, unless

Page 728

the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this fifteenth day of December, 1993.

=====

NH.PUC*12/15/93*[75304]*78 NH PUC 729*Public Service Company of New Hampshire

[Go to End of 75304]

Re Public Service Company of New Hampshire

DE 93-200

Order No. 21,066

78 NH PUC 729

New Hampshire Public Utilities Commission

December 15, 1993

Qualifying Facility Certification.

BY THE COMMISSION:

ORDER

On October 27, 1993 the Commission issued Order No. 21,003 requiring Public Service Company of New Hampshire (PSNH) to bill 59 Qualifying Facilities (QF) on a net rather than a gross sales basis and to develop a schedule within 90 days of the date of the Order to implement the new billing procedure; and

WHEREAS, the Commission based the decision rendered in Order No. 21,003 on the Federal Energy Regulatory Commission's (FERC) decision in *Re Turners Falls Limited Partnership*, 124 PUR 4th 377 (1991), interpreting the Public Utility Regulatory Policy act of 1978, and the

Energy Policy Act of 1992; and

WHEREAS, on November 29, 1993, the Granite State Hydropower Association (Association) filed an emergency motion with the FERC requesting clarification of the *Turners Falls* decision and certain proposed rules relative to net versus gross sales and status as a QF; and

WHEREAS, on the same date PSNH filed a request with the Commission to substitute for the requirement that PSNH implement the net billing arrangements within 90 days, a deadline of the end of the first quarter of 1994 for the development of a site specific schedule of implementation; and

WHEREAS, the Association has requested that this Commission defer implementation of Order No. 21,003 until the FERC has had an opportunity to address its motion; and

WHEREAS, in light of the pending motion before the FERC, the Commission believes it would be in the public good to defer the implementation of Order No. 21,003; it is hereby

ORDERED, that the Granite State Hydropower Association's motion to defer implementation of Order No. 21,003 is granted in order to allow the Federal Energy Regulatory Commission to address the substantive issues contained in the Commission's Order as set forth in the Association's motion before the FERC; and it is

FURTHER ORDERED, that the 90-day deadline for the implementation of the new billing procedure imposed on PSNH in Order No. 21,003 be deferred until the FERC has addressed the substantive issues raised in the Association's motion, but that PSNH continue to develop a site specific schedule for implementation in the meantime.

By order of the New Hampshire Public Utilities Commission this fifteenth day of December, 1993.

=====

NH.PUC*12/15/93*[75305]*78 NH PUC 729*MCI Telecommunications Corporation of New Hampshire

[Go to End of 75305]

Re MCI Telecommunications Corporation of New Hampshire

DE 93-225

Order No. 21,067

78 NH PUC 729

New Hampshire Public Utilities Commission

December 15, 1993

Order *Nisi* Approving Revisions to MCI's Tariff Regarding Holiday Discounts

BY THE COMMISSION:

ORDER

On November 16, 1993, MCI Telecommunications Corporation of New Hampshire (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to move the reference to MCI Holiday Discounts to the Rules and Regulations section of its tariff; and

WHEREAS, this filing is administrative in nature and does not change the existing rates for offered services; and

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WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the following tariff pages for MCI's NHPUC No. 1 - are approved:

22st Revised Page 1
 11th Revised Page 2
 11th Revised Page 3
 13th Revised Page 3.1
 2nd Revised Page 22
 1st Revised Page 25.1
 1st Revised Page 27.1
 1st Revised Page 36
 2nd Revised Page 42
 6th Revised Page 54;

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, MCI cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than December 27, 1993 and is to be documented by affidavit filed with this office on or before January 11, 1994; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than January 11, 1993; and it is

FURTHER ORDERED, that MCI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective January 15, 1993, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this fifteenth day of December,

1993.

=====

NH.PUC*12/15/93*[75306]*78 NH PUC 730*Lakes Region Water Company, Inc.

[Go to End of 75306]

Re Lakes Region Water Company, Inc.

DF 93-094

Order No. 21,068

78 NH PUC 730

New Hampshire Public Utilities Commission

December 15, 1993

Order *Nisi* Approving Permanent Financing.

BY THE COMMISSION:

ORDER

On May 13, 1993 Lakes Region Water Company, Inc., (the "Company"), a New Hampshire corporation with its principal place of business in Moultonboro, New Hampshire, filed with the Commission a petition for approval of financing for the issuance by the company of long term debt and the mortgaging of its property as security; and

WHEREAS, subsequent to the filing of the petition, the Farmington National Bank (the "Bank") was unable to issue a commitment letter for the full amount of the proposed financing until additional congressional funding authorization for the Small Business Administration (the "SBA") was enacted; and

WHEREAS, the Bank did provide interim financing to the Company in the amount of \$32,000 shortly after June 22, 1993 for the purpose of acquiring the land for a well field, such financing approved by this Commission in its Order No. 20,879 issued June 22, 1993; and

WHEREAS, Order No. 20,879 directed the Company to submit to this Commission the Bank's letter of commitment for the full \$380,000 in financing before approval for such financing would be considered; and

WHEREAS, said letter of commitment received by this Commission indicates that the proposed long term debt will be a term loan from Farmington National Bank (the "Bank") with a principal amount of \$380,000 and an amortization period of fifteen years, with interest payable at 2.75% above the lowest New York Prime Rate of Interest, as specified in the Wall Street Journal; and

WHEREAS, the proposed long term debt has now received approval for guarantee by the SBA; and

WHEREAS, the Company proposes to utilize the proceeds of the long term debt in substantially the same manner as represented in its May 13 filing, to wit: 1) repay existing debt

Page 730

in the sum of \$215,100, all of which is currently owing to First NH Bank; 2) establish a new well field in its Paradise Shores franchise area, which additionally involves the repayment of the \$32,000 interim financing provided by the Bank pursuant to Order No. 20,879; and 3) acquire land and construct an office building at a cost of approximately \$90,000; and

WHEREAS, the Company will pay an origination fee of \$6,460 and shall be responsible for any other out-of-pocket costs and expenses incurred by the Bank in connection with the documentation and closing of this loan; and

WHEREAS, the financial documents and pro-forma statements submitted by the Company in its May 13 filing justifying the terms, amount and purposes of the proposed financing remain valid; and

WHEREAS, the approval of the financing herein does not in any way constitute a finding of prudence with respect to the proposed capital additions by the Company, said prudence to be investigated upon request by the Company for inclusion of the capital additions in its rate base; and

WHEREAS, after investigation by the Commission, pursuant to RSA 369:4, it appears that it is consistent with the public good to approve Lakes Region's request for long-term financing; it is hereby

ORDERED, NISI, that the financing agreement between Lakes Region Water Company, Inc. and Farmington National Bank is consistent with the public good and is hereby approved, pursuant to RSA 369:1; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, Lakes Region Water Company, Inc. cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than December 20, 1993 and is to be documented by affidavit filed with this office on or before December 31, 1993; and it is

FURTHER ORDERED, that all persons interested in responding to the petition be notified that they may submit their comments to the Commission or may submit a written request for a hearing in this matter no later than December 31, 1993; and it is

FURTHER ORDERED, that an accounting of the disposition of the proceeds of this financing be provided, duly sworn to by the Company Treasurer, no later than March 15, 1994; and it is

FURTHER ORDERED, that this Order NISI shall be effective January 4, 1994, unless a request for a hearing is filed with the Commission as provided above or unless the Commission orders otherwise prior to the effective date.

By order of the New Hampshire Public Utilities Commission this fifteenth day of December, 1993.

=====

NH.PUC*12/20/93*[75307]*78 NH PUC 731*New England Telephone

[Go to End of 75307]

Re New England Telephone

DR 93-159
Order No. 21,069
78 NH PUC 731

New Hampshire Public Utilities Commission

December 20, 1993

Order Approving Customized NETSAVER.

BY THE COMMISSION:

ORDER

On September 1, 1993, New England Telephone (NET) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to introduce Customized NETSAVER, a new Optional Calling Plan targeted toward the high and medium volume toll customer; and

WHEREAS, the Commission approved *nisi* the Customized NETSAVER plan by Order No. 20,989 (October 12, 1993) for effect November 11, 1993; and

WHEREAS, on November 5, 1993, AT&T, MCI, Sprint and Long Distance North (LDN) filed with the Commission a joint Motion to Suspend and Reject NET's tariff filing dated September 1, 1993 and a request for a one day hearing; and

WHEREAS, a hearing was held on December 10, 1993 during which AT&T, MCI, Sprint and LDN collectively presented their argument that Customized NETSAVER does not meet the price rules in the Modified Stipulation, and NET argued that Customized NETSAVER meets the price rules in the Modified Stipulation; and

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WHEREAS, based on a weighted price floor analysis using the Commission staff's methodology as filed on October 8, 1993, we find that Customized NETSAVER falls within a zone of reasonableness as called for in the Modified Stipulation and results in just and reasonable rates; and

WHEREAS, a full report will be issued containing a complete analysis of the record; and

WHEREAS, it is in the public interest to formally provide a prompt decision in this case

which, of necessity, must be before a full report can be issued; it is hereby

ORDERED, that our decision in Order No. 20,989 remains unchanged and the following tariff pages are approved:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NHPUC No. 75 Part A	
Section 9	- Eighth Revision of Table of Contents Page 2
	- Original Pages 74 through 76
Section 10	- Original Page 13

and it is

FURTHER ORDERED, that said tariff pages are effective immediately.

By order of the New Hampshire Public Utilities Commission this twentieth day of December, 1993.

=====

NH.PUC*12/21/93*[75308]*78 NH PUC 732*Brake Hill Acres Water Company

[Go to End of 75308]

Re Brake Hill Acres Water Company

DR 93-136
Order No. 21,070
78 NH PUC 732

New Hampshire Public Utilities Commission

December 21, 1993

Order Cancelling Hearing.

BY THE COMMISSION:

ORDER

On August 11, 1993, Mrs. Pearl York, owner of a water system serving customers in a limited area of the town of Gilford, New Hampshire known as Brake Hill Acres (Brake Hill), and P.D. LaBonte & Sons, Inc. (LaBonte), a New Hampshire Corporation with its principal place of business in Gilford, New Hampshire, filed a Joint Petition to Transfer the Assets of the Brake Hill water system to P.D. LaBonte & Sons, Inc. and;

WHEREAS, the petition requested authorization for LaBonte to own and operate the Brake Hill system pursuant to RSA 374:22, and implicitly to establish rates therefore, pursuant to RSA Chapter 378; and

WHEREAS, the Commission Staff (Staff) forwarded data requests on September 14, 1993 to LaBonte to establish the necessary information to move forward on the requested relief; and

WHEREAS, an Order of Notice issued on November 18, 1993 ordered that a hearing be held on December 29, 1993 to address the proposed transfer and related matters; and

WHEREAS, the responses supplied by LaBonte to date have been incomplete and have otherwise failed to demonstrate LaBonte's financial, technical, administrative and managerial capability to become the owner of the Brake Hill system; and

WHEREAS, Staff has requested additional time to investigate both the current petition and other possible options for ownership of the system; it is hereby

ORDERED, that the December 29, 1993 hearing is cancelled; and it is

FURTHER ORDERED, that Staff report its recommendation for resolution of this docket to the Commission within 45 days; and it is

FURTHER ORDERED, that the Commission's Executive Director and Secretary notify the current Brake Hill customers and the Gilford Town Clerk of the above matters by providing a copy of this Order of Notice to each by First Class Mail, postmarked no later than December 22, 1993.

By order of the New Hampshire Public Utilities Commission this twenty-first day of December, 1993.

=====

NH.PUC*12/21/93*[75309]*78 NH PUC 733*Pembroke Water Works

[Go to End of 75309]

Re Pembroke Water Works

DE 93-049

Order No. 21,071

78 NH PUC 733

New Hampshire Public Utilities Commission

December 21, 1993

Order *NISI* Granting Pembroke Water Works Authority to Expand the Area Served by the Water Works within the Towns of Allenstown and Hooksett.

BY THE COMMISSION:

ORDER

WHEREAS, on March 2, 1993, Pembroke Water Works (Pembroke) filed a petition to expand its existing service areas in the Towns of Allenstown and Hooksett; and

WHEREAS, Pembroke represents that the proposed service area expansions are the result of requests for service by potential customers and will have minimal impact on existing customers;

and

WHEREAS, the only areas currently served by Pembroke outside its municipal boundaries are those granted by Order No. 7017, dated July 22, 1957, in the Towns of Allenstown and Hooksett; and

WHEREAS, the Towns of Allenstown and Hooksett have indicated in separate letters filed with the Commission that they have no objection to the proposed expansion of Pembroke's service area; and

WHEREAS, the Hooksett Village Water Precinct, the only other purveyor of water in the immediate area, has indicated in a separate letter to the Commission that it has no objection to the proposed expansion; and

WHEREAS, the New Hampshire Department of Environmental Services has approved the suitability and availability of water in the proposed expanded service areas as required by RSA 374:22, III; and

WHEREAS, Pembroke has represented in writing that it will continue to provide service in all existing and proposed areas at the same rates as charged within the Town of Pembroke, and at the same level of service, in accordance with the conditions of RSA 362:4,III(a), thereby exempting Pembroke from Commission regulation except for the franchise application requirements of RSA 374:22; and

WHEREAS, upon investigation and consideration, the Commission finds that allowing Pembroke to expand its franchise area as requested is in the public good; and

WHEREAS, the public should be afforded an opportunity to respond to this petition; it is hereby

ORDERED *NISI*, that Pembroke is granted authorization, pursuant to RSA 374:22 and 26, effective January 24, 1994, to expand its franchise into additional limited areas of Allenstown and Hooksett described as follows:

Allenstown: Beginning at the southeasterly corner of the existing service area in Allenstown where the Allenstown-Hooksett town line intersects US Route 3 (Daniel Webster Highway); thence in a generally easterly direction along said town line along the boundaries of the following tax map parcels as shown on the Allenstown Tax Map: Map 12, Lot 17 (now or formerly owned by John Currier) and Lot 14 (now or formerly owned by Romeo and Theresa Plourde) and Map 13, Lot 10 (now or formerly owned Parker Real Estate Trust) to the westerly sideline of the Old Chester Turnpike; thence turning and running in a generally northwesterly direction along the westerly sideline of Old Chester Turnpike to its intersection with the boundary of the current service area in Allenstown; thence turning and running along that boundary South 65 degrees West to US Route 3 (Daniel Webster Highway); thence turning and running in a generally southerly direction along the highway to the point of beginning.

Hooksett: Beginning at the point in Hooksett where the southerly boundary of the current service area intersects the easterly sideline of Pleasant Street, so-called; thence running along the easterly sideline of Pleasant Street to the southwesterly corner of property now or formerly owned by Jean Pierre and Claudette Allard, and designated on

Hooksett Tax Map 33 as Lot 33- 18; thence turning and running in a generally easterly direction to the westerly sideline of US Route 3 (Daniel Webster Highway) along the southerly boundaries

Page 733

of Lot 33-18 a distance of 1,234.28 feet, Lot 33-1 (now or formerly owned by Bruce M. and Linda Courtemanche) a distance of 1,108.57 feet, and Lot 33-2 (now or formerly owned by Brian Courtemanche) a distance of 440.30 feet; thence turning and running in a generally northerly direction along the westerly sideline of Route 3 a distance of 903 feet to the Allenstown-Hooksett town line; thence turning and running in a generally westerly direction along said town line a distance of approximately 3,236 feet to the easterly boundary of the existing service area in Hooksett; thence turning and running in a generally southerly direction along said boundary to the southerly boundary of the existing service area; thence turning and running in a generally westerly direction along said southerly boundary to the point of beginning at Pleasant Street.

;and it is

FURTHER ORDERED, that all persons interested in responding be notified that they may submit their comments or file a written request for a hearing before the Commission by January 17, 1994;and it is

FURTHER ORDERED, that Pembroke effect such notification by (1) causing an attested copy of this order to be published no later than December 31, 1993, once in a newspaper having general circulation in the Pembroke, Allenstown, and Hooksett area; (2) providing a copy of this order by first class mail to the Town Clerk of each of the aforementioned Towns, postmarked on or before December 31, 1993; and (3) documenting compliance with these notice provisions by affidavits to be filed with the Commission on or before January 20, 1993.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of December, 1993.

=====

NH.PUC*12/21/93*[75310]*78 NH PUC 734*LCI International of New Hampshire, Inc.

[Go to End of 75310]

Re LCI International of New Hampshire, Inc.

DE 93-263

Order No. 21,072

78 NH PUC 734

New Hampshire Public Utilities Commission

December 21, 1993

Order *Nisi* Approving: LCI International Debit Card, Campus Talk, and Integritysm Services.

BY THE COMMISSION:

ORDER

On December 10, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from LCI International of New Hampshire, Inc. (LCI), a subsidiary of LCI International, for authority to offer its "LCI International Debit Card," Campus Talk, and Integrity[ServiceMark] services; and

WHEREAS, these services provide debit card service; discounted, low-volume toll to colleges and schools; and volume and/or term discounts for high-volume toll customers; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the following tariff pages are approved for LCI, NH.P.U.C. No. 1:

First Revised Page 1

First Revised Page 2

First Revised Page 3

Section 2, Original Page 8

Section 2, Original Page 9

Section 2, Original Page 10

Section 4, Original Page 10

Section 4, Original Page 11

Section 4, Original Page 12

Section 4, Original Page 13

Section 4, Original Page 14

Section 4, Original Page 15

Section 4, Original Page 16;

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, LCI cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than December 31, 1993 and is to be documented by affidavit

filed with this office on or before January 20, 1994; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than January 17, 1994; and it is

FURTHER ORDERED, that LCI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective January 21, 1994, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-first day of December, 1993.

=====

NH.PUC*12/21/93*[75311]*78 NH PUC 735*Concord Electric Company

[Go to End of 75311]

Re Concord Electric Company

Additional respondent: Exeter & Hampton Electric Company

DR 93-195
Order No. 21,073
78 NH PUC 735

New Hampshire Public Utilities Commission

December 21, 1993

1994 Conservation & Load Management Charges; Order Suspending Tariff Pages.

BY THE COMMISSION:

ORDER

On October 4, 1993, UNITIL Service Corporation filed with the New Hampshire Public Utilities Commission (Commission) the 1994 Conservation and Load Management (C&LM) Proposal for Concord Electric Company and Exeter and Hampton Electric Company; and

WHEREAS, proposed tariff pages NHPUC No. 12 - Electricity, First Revised Page 26 for Concord Electric Company and NHPUC No. 17 - Electricity, First Revised Page 26 for Exeter and Hampton Electric Company (Conservation Charge) were filed on December 2, 1993 in support of the 1994 C&LM proposal and 1994 Conservation Charges; and

WHEREAS, the proposed tariff sheets are scheduled to become effective on January 1, 1994; and

WHEREAS, it is necessary and in the public interest for a thorough investigation of the 1994 C&LM proposal and Conservation Charges to be conducted prior to implementation of the 1994 C&LM proposal; and

WHEREAS, said investigation has not been conducted; it is hereby

ORDERED, that the proposed tariff pages are suspended pending completion of said investigation; and it is

ORDERED, that the 1993 Conservation Charges as approved in Order No. 20,743 dated February 5, 1993, and the 1993 C&LM programs as approved in Order No. 20,767 dated February 16, 1993 shall remain in effect until such time as a decision is rendered in the instant docket.

By order of the New Hampshire Public Utilities Commission this twenty-first day of December, 1993.

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NH.PUC*12/21/93*[75312]*78 NH PUC 735*GE Exchange Corporation of New Hampshire

[Go to End of 75312]

Re GE Exchange Corporation of New Hampshire

DE 93-223

Order No. 21,074

78 NH PUC 735

New Hampshire Public Utilities Commission

December 21, 1993

Order *Nisi* Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On November 15, 1993, GE EXCHANGE Corporation of New Hampshire, a New Hampshire corporation, d/b/a GE EXCHANGE and d/b/a GE Capital EXCHANGE (GE EXCHANGE) petitioned the New Hampshire Public Utilities Commission (Commission) for authority to do business as a telecommunica-

Page 735

tions utility in the State of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26; and

WHEREAS, interim authority for intrastate competition in the telecommunications industry will allow the Commission to analyze competition during the two-year Trial Period (October 1, 1993 to September 30, 1995) described in Commission Report and Order No. 20,916 (August 2, 1993); and

WHEREAS, GE EXCHANGE has demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public good is served by permitting interim competition by competent telecommunications companies; and

WHEREAS, the public should be provided an opportunity to respond in support of, or in opposition to this petition; it is hereby

ORDERED, that GE EXCHANGE shall notify all persons interested in responding to this petition that they may submit comments or file a written request for a hearing on this matter before the Commission no later than January 17, 1994; and it is

FURTHER ORDERED, that GE EXCHANGE shall publish an attested copy of the Notice of Conditional Approval attached to this Order once in a newspaper having general statewide circulation, publication to be no later than December 31, 1993. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before January 20, 1994; and it is

FURTHER ORDERED, that pursuant to RSA 363-A:1, et seq. GE EXCHANGE shall pay all assessments levied upon it by the Commission based on the amount of gross revenues received as a result of doing business in New Hampshire; and it is

FURTHER ORDERED, that GE EXCHANGE may offer as a public utility, telecommunication services for the service territory of the entire State of New Hampshire; and it is

FURTHER ORDERED, *NISI*, that GE EXCHANGE hereby is granted authority to offer intrastate long distance services in the State of New Hampshire subject to the following conditions:

1. that the services shall be offered only by approved tariffs, as subsequently amended, and shall be offered only on an interim basis until completion of the Trial Period, at which time the authority granted herein may be revoked or continued on the same or different basis;

2. that GE EXCHANGE shall file tariffs for new services and changes in approved services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;

3. that GE EXCHANGE shall notify the Commission of any change in rates of approved services to be charged the public within one day after offering the service at rates other than the rates on file with the Commission;

4. that GE EXCHANGE is exempt from NH Admin. Rules, Puc 406.03 Accounting Records; Puc 407 Forms Required of All Telephone Utilities; and Puc 409 Uniform System of Accounts for Telecommunications Companies;

5. that GE EXCHANGE shall maintain its books and records in accordance with Generally Accepted Accounting Principles;

6. that GE EXCHANGE shall file each calendar year an Annual Report, consisting of: a Balance Sheet and Statement of Operations and an Information Sheet, reflecting to whom the N.H. Utility Assessment should be mailed and a Listing of Corporate Officers and Titles;

7. that GE EXCHANGE shall be subject and responsible for adhering to all statutes and administrative rules including those related to quality and terms and conditions of service, disconnections, deposits and billing, except those specifically waived herein;

8. that GE EXCHANGE shall be subject to all reporting requirements contained in RSA 374:13-19 and any filing or reporting requirements imposed by the Commission in this or subsequent orders;

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9. that GE EXCHANGE shall compensate the appropriate Local Exchange Company for all originating and terminating access used by GE EXCHANGE pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies;a) b)

10. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;

11. that during the Trial Period, GE EXCHANGE shall within 60 days following the end of calendar quarter, report on a confidential basis, except where noted, monthly statistics, for each month the service is offered, the following information:

a. For each intrastate toll service offered:

(1) number of subscribers in NH who have intrastate usage will be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

(2) intrastate minutes of use;

(3) intrastate revenue;

(4) type of access arrangement used;

(5) for services that use different access arrangements (e.g. SDN) the percentage of use relative to each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

(6) whether the service is residential or business or both. Item a.(6) is not confidential.

b. On an aggregate basis, intrastate minutes and access charges actually paid to each LEC;

c. The intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and for special access arrangements;

d. The number of interstate and intrastate special access arrangements stated by channel capacity;

e. The intrastate conversation minutes of use terminated, reported separately by service, for switched access arrangements, and for special access arrangements;

f. As a percentage of total intrastate conversation minutes of use, the amount of intrastate traffic that was both originated and terminated over switched access;

g. For each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

(1) for non-800 services, originating outbound minutes of use;

(2) for 800 services, terminating inbound minutes of use;

(3) average call duration;

(4) type of access arrangement used. Item g.(4) is not confidential;

h. Percentage Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC); and it is

FURTHER ORDERED, that nothing contained in this Order shall be construed to allow GE EXCHANGE to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that GE EXCHANGE file a compliance tariff before

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beginning operations in accordance with NH Admin. Rules, Puc PART 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective January 21, 1994, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-first day of December, 1993.

STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DE 93-223

Notice of Conditional Approval of GE EXCHANGE CORPORATION OF NEW HAMPSHIRE To Do Business as a Telecommunications Utility in State of New Hampshire

On November 15, 1993, GE EXCHANGE Corporation of New Hampshire, (GE EXCHANGE), filed with the New Hampshire Public Utilities Commission (Commission) a petition to do business as a telecommunications utility in the State of New Hampshire, specifically to provide intrastate long distance telecommunications services. GE EXCHANGE, a New Hampshire corporation, is affiliated with the General Electric Company, a New York corporation, and its subsidiaries: GE Capital Corp., a Delaware corporation, GE Capital Services, a New York corporation, and GE Capital Communications Services Corporation, a Georgia corporation.

In Order No. 21,074, the Commission granted GE EXCHANGE conditional approval to operate as of January 21, 1994 subject to the right of the public and interested parties to comment on GE EXCHANGE or its operations before the Order becomes final.

For copies of the petition or Commission order granting conditional approval, please contact the Commission's Executive Director and Secretary at (603) 271-2431, or as noted below. Anyone interested in commenting on GE EXCHANGE's petition to do business in the State should submit written comments no later than January 17, 1994 to:

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission 8 Old Suncook Road Concord, New Hampshire 03301

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NH.PUC*12/28/93*[75313]*78 NH PUC 738*Southern New Hampshire Water Company

[Go to End of 75313]

Re Southern New Hampshire Water Company

DR 89-224

Order No. 21,075

78 NH PUC 738

New Hampshire Public Utilities Commission

December 28, 1993

Revised Tariff Pages Regarding Existing Recoupment Surcharges Associated with Rate Case Expenses and Temporary/Permanent Rate Recovery; Report and Order Denying Request for Extension of Surcharge.

BY THE COMMISSION:

REPORT

On August 23, 1993, Southern New Hampshire Water Company (Southern) filed revised tariff pages which, if approved, would supersede the effective surcharges associated with rate case expenses and the differences between the temporary and permanent rate recovery in Southern's rate case, DR 89-224. On September 22, 1993, the New Hampshire Public Utilities Commission (Commission) suspended 4th Revised Page 70 and 4th Revised Page 71 pending further investigation. The purpose of the petition was to address two items: (1) the recovery of additional rate case expenses associated with the appeal of the Office of the Consumer Advocate and (2) continued application of approved surcharge amounts collecting the difference between temporary and permanent rates authorized in the above docket.

Funds associated with the difference between temporary and permanent rates were established for each system and the amounts

were fixed at the last rate proceeding in this docket.

As a result of changes in consumption patterns and number of customers, Southern has not realized the revenue differences between the temporary and permanent rates in some systems. For this reason, Southern requested it recover the total amounts due by continuing the current surcharges, in effect to all customers, through the end of February, 1994. This recovery period would include the additional rate case expenses as well as any under-recovery associated with changes in customers and usage patterns in the various systems.

The Commission has reviewed the proposal and made the following findings:

The tariff pages currently in effect govern the recoupment of the rate case expenses applied across the board and temporary/permanent rate recovery associated with this docket applied on a percentage basis. The surcharges were to continue until the total revenues were recovered, or for two years, on a system by system basis. Based upon information supplied by Southern, a number of the systems had already contributed, or would contribute, their share of the required revenues prior to February 10, 1994, and, therefore, to continue application of the surcharge would be inconsistent with the tariff.

The additional rate case expenses associated with the appeal of the Office of the Consumer Advocate were approved and Southern may collect these amounts.

At our December 14, 1993 public meeting, we deliberated on the request of Southern to amend its tariff pages to allow continued recoupment of the surcharges concerning temporary rates. We noted that the procedure under which the Company has operated was inconsistent with the currently effective tariff governing rates charged by the Company. The tariff indicates that upon receipt of sufficient funds to recover the difference between temporary and permanent rates in each of its service areas, the surcharge would be discontinued. Also, we noted that the surcharge was to be in effect for a total period of 24 months beginning with the normal billing period to be mailed on or after February 10, 1992. The provision of a two-year recoupment period would also be violated if Southern extended the application of the proposed surcharge for those service areas that have not provided sufficient revenues to cover the total surcharge amount allocated to it.

We denied the request that the surcharge be extended to all service areas until February 24, 1994, finding that it was not the correct method to recoup any dollars outstanding at the end of the effective tariff time period. We further stated that Southern has the opportunity to address the recoupment amounts that remain uncollected as of the tariff deadline and, therefore, denied Southern's request to modify its currently existing tariff pages 70 and 71. However, we recognize that Southern should be provided with an opportunity to submit additional information regarding any uncollected recoupment amounts remaining at February 10, 1994. We will also require that Southern justify why it did not discontinue the application of a surcharge in compliance with its tariff on file with the Commission.

Our order will issue accordingly.

Concurring: December 28, 1993

ORDER

In consideration of the foregoing report which is made a part hereof, it is hereby ORDERED, that NHPUC No. 8, Water, 4th Revised Page 70 and 4th Revised Page 71 are hereby rejected; and it is

FURTHER ORDERED, that the petition of Southern New Hampshire Water Company, Inc. to extend the application of the surcharge to all service areas until February 24, 1994 is denied; and it is

FURTHER ORDERED, that Southern New Hampshire Water Company, Inc. may submit evidence concerning the remaining recoupment amount outstanding at the effective the date of this order; and it is

FURTHER ORDERED, that Southern New Hampshire Water Company, Inc. submit, on a system by system basis, any over or under collection associated with failure to comply with the terms and conditions of its currently effective tariff governing the surcharge recoupment amounts as well as justification as to the

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rationale for continuing the application of a surcharge when in fact the amounts had been recovered by the Company; and it is

FURTHER ORDERED, that Southern New Hampshire Water Company, Inc. is authorized to collect the additional rate case expenses associated with the appeal of the Office of the Consumer Advocate in the amount of \$31,483.23 to be applied using the same method as was used for the original recoupment of rate case expenses associated with this docket.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of December, 1993.

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NH.PUC*12/28/93*[75314]*78 NH PUC 740*Beaver Village Realty Trust

[Go to End of 75314]

Re Beaver Village Realty Trust

DE 92-226

Order No. 21,076

78 NH PUC 740

New Hampshire Public Utilities Commission

December 28, 1993

Order Approving Continuation of Receivership.

BY THE COMMISSION:

ORDER

WHEREAS, the New Hampshire Public Utilities Commission's (Commission) Report and Order No. 20,795, dated March 25, 1993, provided the full procedural history of this docket which will not be repeated herein and appointed a receiver for the Beaver Village Realty Trust water system (water system) located in a subdivision of the Town of Salem known as Porcupine Park; and

WHEREAS, after various efforts to resolve the issue of ownership and operation of the water system failed and the appointed receiver notified the Commission that it would no longer serve as receiver, the Commission appointed Southern New Hampshire Water Company (Southern) as the receiver for the water system for a period of 30 days by Order No. 21,048, having found the public good served by ensuring safe drinking water; and

WHEREAS, the appointment of Southern by Order No. 21,048 was subject to certain terms and conditions regarding, *inter alia*, billing, "jobbing" rates, repairs, and property taxes; and

WHEREAS, on December 14, 1993, at a hearing to evaluate whether Southern should continue as operator of the water system, the Hearings Examiner took administrative notice of Southern's expertise in operating water systems; and

WHEREAS, Southern president, Robert W. Phelps, gave evidence that the Commission's requirement that the water system customers be notified of Southern's expertise and intent to assume management of the water system had been met; and

WHEREAS, a representative of the Porcupine Park homeowners, William McKernan, gave evidence that the homeowners, having investigated other methods of supplying water, supports Southern's intent; and

WHEREAS, Southern has an interest in seeking ownership of the water system providing certain problems requiring legal research and examination of the physical plant in the Spring of 1994 can be resolved; it is hereby

ORDERED, that Southern's continued receivership of the water system is approved effective immediately until May 31, 1994, subject to the same terms and conditions contained in Order No. 21,048; and it is

FURTHERED ORDERED, that on April 20, 1994, the parties and Staff shall meet to discuss and prepare for submission to the Commission a progress report on the status of Southern's plans for acquiring ownership of the water system.

By order of the New Hampshire Public Utilities Commission this twenty-eighth day of December, 1993.

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NH.PUC*12/29/93*[75315]*78 NH PUC 741*New Hampshire Electric Cooperative, Inc.

[Go to End of 75315]

Re New Hampshire Electric Cooperative, Inc.

Re Mt. Attitash Lift Corporation

DR 93-248
Order No. 21,077

Re Black Mountain Development Corporation

DR 93-249
DR 93-250
Order No. 21,077

Re Mt. Cranmore, Inc.

DR 93-251
DR 93-252
Order No. 21,077

Re Fox Ridge Resort

DR 93-253
Order No. 21,077

Re Hart's Turkey Farm

DR 93-254
Order No. 21,077

Re High View Church Farms

DR 93-255
Order No. 21,077

Re Loon Mountain Recreation Corporation

DR 93-256
Order No. 21,077

Re Red Jacket Mountain View Inn

DR 93-257
Order No. 21,077

Re Waterville Company, Inc.

DR 93-258
Order No. 21,077

Re Inns of Waterville Valley Association

DR 93-259
Order No. 21,077

Order No. 21,077

78 NH PUC 741

New Hampshire Public Utilities Commission

December 29, 1993

Order *Nisi* Approving Winter Interruptible Service Agreements.

BY THE COMMISSION:

ORDER

WHEREAS, On December 8, 1993, the New Hampshire Electric Cooperative, Inc. (NHEC) filed winter interruptible service agreements in the above-mentioned dockets; and

WHEREAS, the service agreements are in accordance with NHEC's winter interruptible tariff on file with the New Hampshire Public Utilities Commission (Commission); and

WHEREAS, the Commission finds that the terms of the service agreements are just and reasonable and therefore consistent with public interest; it is hereby

ORDERED *NISI*, that NHEC is authorized to implement the service agreements for winter interruptible service effective November 23, 1993; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules PUC 203.01, the company cause an attested copy of this Order *Nisi* to be published once in a newspaper having general circulation in that portion of the state in which operations are proposed to be conducted, such publication to be no later than January 10, 1994 and it is to be documented by affidavit filed with this office on or before January 25, 1994; and it is

FURTHER ORDERED, that any interested party may file written comments or request an opportunity to be heard in this matter no later than January 25, 1994; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective thirty days from the date of this order, unless the commission provides otherwise in a supplemental order prior to the effective date.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of December, 1993.

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NH.PUC*12/29/93*[75316]*78 NH PUC 741*Springwood Hills Water Company, Inc.

[Go to End of 75316]

Re Springwood Hills Water Company, Inc.

Additional respondent: Southern New Hampshire Water Company, Inc.

DE 93-203

Order No. 21,078

78 NH PUC 741

New Hampshire Public Utilities Commission

December 29, 1993

Report and Order Addressing Intervention and Establishing a Procedural Schedule.

BY THE COMMISSION:

I. PROCEDURAL HISTORY

On October 25, 1993, Springwood Hills Water Company, Inc. (Springwood) and Southern New Hampshire Water Company, Inc. (Southern) filed with the New Hampshire Public Utilities Commission (Commission) a Joint Petition for Approval of the Purchase and Sale of the Springwood Hills Water System from Springwood. On November 23, 1993, the Commission issued an Order of Notice scheduling a

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prehearing conference for December 15, 1993 to establish a procedural schedule and to address any petitions to intervene.

On November 10, 1993, the Springwood Hills Neighborhood Association (Association) filed a motion to intervene. At its public meeting of December 6, 1993, the Commission granted the Association's motion to intervene.

On December 15, 1993, the Commission held the duly noticed prehearing conference.

II. POSITIONS OF THE PARTIES

All of the parties and the Staff stipulated to the following procedural schedule:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Company Testimony	12/21/93
Briefs on scope of docket	12/30/93
Data Requests to Company	1/10/94
Company Data Responses	1/21/94
Staff & Intervenor Testimony	2/14/94
Company Data Requests to Staff & Intervenors	2/22/94
Staff & Intervenor Data Responses to Company	3/11/94
Company Rebuttal Testimony	3/18/94
Hearings	3/22, 23, & 24, 1994 9:00 AM.

However, a number of other issues were raised by the parties on which there was not agreement.

A. Southern New Hampshire Water Company, Inc.

Southern objected to the Association's petition to intervene and essentially requested the Commission to reconsider its oral decision of December 6, 1993 granting the Association's

motion.

Southern objected to the Association's motion on two grounds, the first of which was relevancy. Southern believes and alleged that the Association's motive for intervention was to place before the Commission an alternative proposal for the purchase of the Springwood Hills water system by the Association. Southern argued that the only petition before the Commission was Southern's request to purchase the system and therefore the only issue before the Commission is Southern's managerial, technical and financial expertise to operate a water system. Thus, Southern contends that the Commission cannot legally consider alternative proposals for the purchase and operation of the water distribution system in this docket.

Southern also raised the issue that the Association was not a legal entity and even if it were, it did not represent the position of a large number of the customers served by the Springwood Hills water system.

B. Springwood Hills Neighborhood Association

The Association asserted that the Commission should consider alternative options for the ownership and operation of the water distribution system when examining Southern's petition.

The Association further asserted that it was in fact a legal entity and that it represented the majority of the homeowners served by the water distribution system.

C. Springwood Hills Water Company

Springwood Hills supported Southern's position and further requested that should the Commission consider alternative proposals to Southern's, specifically a proposal by the Association to purchase the system, the Commission require the Association to make its offer of purchase in writing and place any and all funds required to consummate the sale in escrow to ensure the Association's performance.

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D. Staff and the Office of Consumer Advocate

Neither Staff nor the Office of Consumer Advocate took a position on the issues raised above. III. COMMISSION ANALYSIS

In regard to the issue of the Association's legal status and therefore its standing to intervene in this proceeding, the Commission reaffirms its position taken at the December 6, 1993 public meeting. The Association is granted full intervention.

It has always been the Commission's position that discrete parties with the same or similar interests should act in unison to avoid repetition and assure the efficient operation of our proceedings. Thus, the Association's legal status is irrelevant. To the extent that the Association does not in fact represent all of the customers of the water distribution system, we believe that those customers should make their position known to the Commission, as many already have. We will direct our Staff to investigate the extent of customer support of any proposed acquisition of the system by the Association assuming such a proposal is relevant to this proceeding.

In regard to the scope of this proceeding, we invite any interested party to submit briefs concisely addressing its position relative to the consideration of alternative proposals under a

"public good" or a "public interest" standard of review.

In regard to requests relative to alternative proposals, we will withhold any decision on this matter until we have ruled on the scope of the proceeding.

Our Order will issue accordingly.

Concurring: December 29, 1993

ORDER

In consideration of the foregoing report which is made a part hereof; it is hereby

ORDERED, that the Southern New Hampshire Water Company's Motion for Reconsideration of the Commission's decision granting Springwood Hills Neighborhood Association's Motion to Intervene is denied; and it is

FURTHER ORDERED, that Springwood Hills Neighborhood Association is granted full intervention; and it is

FURTHER ORDERED, that the procedural schedule set forth in the foregoing report is in the public good and is therefore adopted to govern our investigation into the proposed purchase and sale of the Springwood Hills Water distribution system.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of December, 1993.

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NH.PUC*12/29/93*[75317]*78 NH PUC 743*EnergyNorth Natural Gas, Inc.

[Go to End of 75317]

Re EnergyNorth Natural Gas, Inc.

DR 93-030

Order No. 21,079

78 NH PUC 743

New Hampshire Public Utilities Commission

December 29, 1993

Report and Order of the New Hampshire Public Utilities Commission Addressing Natural Gas Vehicle Service.

Appearances: Michelle L. Chicoine on behalf of EnergyNorth Natural Gas, Inc.; Richard P. Cencini on behalf of Northern Utilities, Inc.; Kenneth E. Traum for the Office of Consumer Advocate on behalf of the residential ratepayers of New Hampshire; and E. Barclay Jackson, Esq., on behalf of the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

I. Procedural History

On February 19, 1993, EnergyNorth Natural Gas, Inc. (ENGI) filed with the New Hampshire Public Utilities Commission (Commission) a new tariff page regarding the provision of Natural Gas Vehicle (NGV) service, with a proposed effective date of April 1, 1993.

By Order No. 20,792, dated March 15, 1993, the Commission suspended the NGV tar-

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iff page, required that ENGI notify Northern Utilities, Inc. (Northern) of the order, and scheduled a pre-hearing conference for April 13, 1993.

On April 8, 1993, Northern filed a Motion to Intervene.

By Order No. 20,824, dated April 23, 1993, the Commission granted Northern's Motion to Intervene, approved ENGI's requested interim NGV rates to be charged on a service rendered basis, and required ENGI to provide a cost based rationale for any permanent rates. By the same order the Commission established a Procedural Schedule of six Technical Sessions, position papers to be written by each party and the Staff, and Joint Recommendations to be presented to the Commission addressing the following issues, among others: the viability of NGV service, short and long-run plans vis-a-vis marketing, financial, operational, and regulatory issues.

On December 6, 1993, the parties and Staff presented Joint Recommendations in testimony at a public hearing before the Commission.

II. Joint Recommendations

Staff and the parties presented recommendations on (1) jurisdictional issues, (2) an NGV development plan, (3) rate design issues, and (4) cost recovery mechanisms. The recommendations are attached to and made a part of this Report as Appendix A.

The parties and Staff recommended that jurisdiction over all sales of compressed and uncompressed natural gas should be exercised by the Commission except in the case of the sale of compressed natural gas by a public refueler.

The parties and Staff recommended that after the adoption of a rate based upon the rate design recommended, each local distribution company (LDC) would file with the Commission a four year NGV development plan. The four year plan, representing an NGV demonstration phase consistent with the goals and objectives of the Integrated Resource Planning process, will be reviewed annually by the Commission Staff.

The parties and Staff recommended that the rate design for NGV service should be a flat, non-seasonal rate consisting of a base annually adjusted for Cost of Gas changes pursuant to current Commission practices and policy.

The parties and Staff recommended that the local distribution companies should be allowed to recover all prudently incurred investments and related expenses in connection with its operation of a company-use program, and prudently incurred investments and expenses necessary to provide for a limited number of public refueling stations. The Commission would

be the arbiter of what constitutes "prudently incurred."

III. Commission Analysis

After careful review of the Joint Recommendations and the position papers filed by the parties and Staff, as well as answers to our own questions during the public hearing, we will approve the Joint Recommendations as the basis for developing NGV service in New Hampshire.

The sale of compressed natural gas by a public refueler is analogous to the sale of gasoline by a public service station. Jurisdiction by the Commission would be inappropriate. On the other hand, jurisdiction by the Commission over other sales is appropriate.

A four year demonstration phase to test the viability of NGV service is sensible and will promote development of alternative transportation fuel, which we find to be in the public good.

The rate design proposed in the Joint Recommendations for the demonstration phase is crafted to specific customer classes, with a ceiling and floor set using the annualized tariffed rate plus incremental costs and applicable taxes. Any changes to the ceiling and floor boundaries and special contracts will be subject to Commission review. We will approve the rate design recommended.

Lastly, we will approve the cost recovery mechanism proposed for the four year demonstration phase. Cost recovery is attained, to the fullest extent possible, from the customers utilizing and receiving the benefits of the services. Further, we find that the development of NGV service to be in the public interest of all of New Hampshire.

Our order will issue accordingly.

Concurring: December 29, 1993

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ORDER

Upon consideration of the foregoing report, which is made a part hereof; it is hereby ORDERED, that the Joint Recommendations attached hereto are approved.

By order of the New Hampshire Public Utilities Commission this twenty-ninth day of December, 1993.

APPENDIX A

NATURAL GAS VEHICLE SERVICE

DR 93-030

Joint Recommendations of the Parties and Staff

On February 19, 1993, EnergyNorth Natural Gas, Inc. (ENGI) filed a new tariff page regarding the provision of Natural Gas Vehicle (NGV) service with the New Hampshire Public Utilities Commission (NHPUC or Commission). The Commission subsequently adopted the new tariff as an "interim" rate while the numerous policy issues regarding such service were being shaped and defined.

A lengthy schedule of technical conferences was adopted by ENGI, the Commission Staff, the Office of Consumer Advocate (OCA), and Northern Utilities, Inc. (Northern), an intervenor in the proceedings. They further agreed that stemming from these technical conferences, the two local distribution companies (LDCs), ENGI and Northern, would develop position papers addressing the following issues:

1. A general statement giving both companies' perspectives on the viability of NGV service;
2. A preliminary description of the short-run plans and intentions of both companies vis-a-vis NGV service. At a minimum, focus will be placed on the marketing, financial, and operational ramifications of providing NGV service. Care will be taken to clearly specify the underlying assumptions of the short-run analysis;
3. A broad stroke description of the long-run plans and intentions for providing NGV service, addressing the same issues outlined in point two; and
4. A description of the transition steps to be taken by both companies in going from the short- to the long-run plan.

Per the procedural schedule, ENGI filed its general position paper on June 18, 1993. A supplemental paper which focused specifically on the pricing of natural gas for NGVs was submitted by ENGI on August 20, 1993. Northern submitted its position paper on September 7, 1993.

As part of the schedule, the Commission Staff also developed a position paper which outlined (i) Staff's perspective on the viability of NGV service in New Hampshire, (ii) the regulatory issues involved in providing this service, and (iii) the role of the NHPUC in regulating and facilitating this service. Staff submitted its position paper on September 8, 1993.

Based on lengthy discussions and a detailed review of the position papers, Staff and the parties to this proceeding present the following list of joint recommendations. These recommendations can be divided into four groups. The first set of recommendations refer to certain general jurisdictional issues. The second group of suggestions center on an NGV development plan to be designed by the LDCs. The third set of recommendations outline rate design considerations during the four year "demonstration" period. And the last group of suggestions focus on cost recovery issues from the "demonstration" period.

Jurisdictional Issues

The NHPUC shall exercise jurisdiction over (i) an LDC's sale of compressed natural gas (CNG) to a vehicular end user, (ii) the sale or transportation of uncompressed natural gas to a public vehicular refueler for subsequent compression and resale, and (iii) the sale or transportation of uncompressed natural gas to a

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private vehicular refueler for subsequent compression and use.

The NHPUC shall not have jurisdiction over the sale of CNG by a public refueler.

An NGV Development Plan

Within a twelve month period after the adoption of a development NGV rate from this proceeding, each LDC will file with the Commission a four year NGV development plan. The plan will outline what steps each Company will undertake during the "demonstration" phase of NGV development.

The NGV development plan will be designed to be consistent with the goals and objectives of the integrated resource planning (IRP) process.

Each LDC will meet annually with the Commission Staff to review and update, where necessary, the NGV development plan.

Rate Design Issues During the Four Year "Demonstration" Period

The compressed and uncompressed NGV rates will be flat, i.e., non- seasonal, with no customer charge on the compressed rate, and will consist of a base and an annualized CGA component.

The compressed and uncompressed NGV rates will have floor prices set at the marginal cost of providing these services annually plus any applicable State and Federal taxes. The marginal cost figure utilized is from a customer class which best fits the expected NGV load shape; in the case of Northern, the general commercial G-1 customer class is used, while ENGI utilized its large industrial customer class. A ceiling on compressed and uncompressed NGV rates will be set using the annualized tariffed rate from the relevant customer class plus the incremental compression cost plus any applicable State and Federal taxes. The actual rates charged for compressed and uncompressed NGV service must lie between the floor and ceiling prices and must be assessed in a non-discriminatory manner.

The compressed and uncompressed NGV floor and ceiling bounds will be changed only when other firm service rates are changed, i.e., when annualized CGA adjustments, annual step-adjustments, and/or permanent rate case changes are made.

The sale of uncompressed gas for vehicular use will be structured using special contracts, subject to Commission review. The need for special contracts stems from the individualized compression costs borne by these customers.

Once a customer has taken compressed or uncompressed NGV service at the compressed or uncompressed NGV rate, that customer will be given the opportunity to continue receiving the NGV service for the next four years at a price which lies within the same floor and ceiling parameters as initially offered, subject to any annualized CGA adjustments, annual step-adjustments, and/or changes in the marginal cost structure stemming from a permanent rate case.

Cost Recovery Mechanisms During the Four Year "Demonstration" Period

An LDC will be allowed to recover all prudently incurred investments and related expenses in connection with its operation of a company-use program, and the investments and expenses necessary to provide for a limited number of public refueling stations, said investments and

expenses to be consistent with the NGV company-use demonstration program and the LDC's NGV development plan. The incremental costs associated with the limited number of public refueling stations shall be recovered, to the fullest extent possible, from the customers utilizing those stations. Any remaining unrecovered costs will be recovered from the Company's other firm ratepayers using standard ratemaking procedures when the Company files a permanent rate case.

=====

NH.PUC*12/30/93*[75318]*78 NH PUC 747*New England Telephone Company

[Go to End of 75318]

Re New England Telephone Company

DR 93-236
Order No. 21,080
78 NH PUC 747

New Hampshire Public Utilities Commission
December 30, 1993

Order Suspending Tariff for Service & Equipment Charges.

BY THE COMMISSION:

ORDER

On December 1, 1993 New England Telephone Company (NET or Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to modify the application of nonrecurring charges to certain discretionary services; and

WHEREAS, NET proposes to replace the current Service and Equipment charges with a One-Time Charge; and

WHEREAS, the proposed rates and cost support submitted by the Company require further investigation by Staff; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 75

[Graphic(s) below may extend beyond size of screen or contain distortions.]

- Part A - Section 3 - Fourth Revision of Table of Contents Page 1
Fourth Revision of Page 1
Sixth Revision of Page 2
Eighth Revision of Page 3
Eighth Revision of Page 4
- Part A - Section 5 - Eighth Revision of Page 39
- Part A - Section 6 - Sixth Revision of Page 1
Ninth Revision of Page 2
Second Revision of Page 2.1
First Revision of Page 12
First Revision of Page 13

are suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this thirtieth day of December, 1993.

=====

NH.PUC*12/30/93*[75319]*78 NH PUC 747*New England Telephone Company

[Go to End of 75319]

Re New England Telephone Company

DR 93-239

Order No. 21,081

78 NH PUC 747

New Hampshire Public Utilities Commission

December 30, 1993

Order Suspending Tariff for Digipath Digital Service II (DDSII).

BY THE COMMISSION:

ORDER

On December 2, 1993 New England Telephone Company (NET or Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to modify its Digipath Digital Service II (DDSII) tariff for effect January 1, 1994; and

WHEREAS, NET's proposed changes include the introduction of a new payment option, reduced Service and Equipment charges, elimination of a 10 channel requirement to obtain a contract, and reductions in contract termination liability charges; and

WHEREAS, the proposed rates and cost support submitted by the Company require further investigation by Staff; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 75

[Graphic(s) below may extend beyond size of screen or contain distortions.]

are suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this thirtieth day of December, 1993.

=====

NH.PUC*12/30/93*[75320]*78 NH PUC 748*Granite State Telephone

[Go to End of 75320]

Re Granite State Telephone

DR 93-245
Order No. 21,082
78 NH PUC 748

New Hampshire Public Utilities Commission
December 30, 1993

Order Suspending Tariff for Custom Calling Services.

BY THE COMMISSION:

ORDER

On December 6, 1993 Granite State Telephone (GST or Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking to revise its Custom Calling Services tariff for effect January 3, 1993; and

WHEREAS, the proposed rates and supporting data submitted by the Company require further investigation by Staff; it is hereby

ORDERED, that the proposed revisions to NHPUC No. 6

[Graphic(s) below may extend beyond size of screen or contain distortions.]

- Section 3 -Sheet 9N
- Sheet 9N.1
- Sheet 9N.2
- Sheet 9O
- Sheet 9O.1

are suspended pending further investigation.

By order of the New Hampshire Public Utilities Commission this thirtieth day of December, 1993.

=====

NH.PUC*12/30/93*[75321]*78 NH PUC 748*Lakes Region Water Company, Inc.

[Go to End of 75321]

Re Lakes Region Water Company, Inc.

DR 93-067
Order No. 21,083
78 NH PUC 748

New Hampshire Public Utilities Commission
December 30, 1993

Order Granting Continuance.

BY THE COMMISSION:

ORDER

By Order No. 20,922, dated August 4, 1993, the New Hampshire Public Utilities Commission (Commission) scheduled hearings in this docket for December 21 and 22, 1993; and

WHEREAS, on December 9, 1993, Lakes Region Water Company, Inc. (Lakes Region) filed a Motion for Continuance with the Commission; and

WHEREAS, at a Settlement Conference held December 6, 1993, Lakes Region provided the Staff of the Commission (Staff) with new information which elicited additional data requests from Staff; and

WHEREAS, Lakes Region and Staff agreed that Lakes Region should file supplemental testimony on or about December 16, 1993; and

WHEREAS, Lakes Region and Staff agreed that additional time is required to review the new data and testimony; it is hereby

ORDERED, that hearings on the merits in this docket are continued until January 24, 1994 at 11:00 a.m. and January 25, 1994 at 10:00 a.m.

By order of the New Hampshire Public Utilities Commission this thirtieth day of December, 1993.

=====

NH.PUC*12/30/93*[75322]*78 NH PUC 748*MCI Telecommunications Corporation of New Hampshire

[Go to End of 75322]

Re MCI Telecommunications Corporation of New Hampshire

DE 93-231
Order No. 21,084
78 NH PUC 748

New Hampshire Public Utilities Commission
December 30, 1993

Order *Nisi* Approving Revisions to MCI's Prism Plus and Introducing Commercial Dial 1 Service.

BY THE COMMISSION:

ORDER

On December 2, 1993, MCI Telecommunications Corporation of New Hampshire (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to revise the usage structure associated with Prism Plus and introduce Commercial Dial 1 Service; and

WHEREAS, the revision to Prism Plus changes the minimum initial period from six seconds to 30 seconds; and

WHEREAS, Commercial Dial 1 Service is a one-way, dial in, dial out multipoint service for customers who subscribe to business

Page 748

exchange service from the local exchange company; and

WHEREAS, MCI filed these tariff pages for effect January 1, 1994; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NSI*, that the following tariff pages for MCI's NHPUC No. 1 - are approved:

- 23rd Revised Page 1
- 12th Revised Page 2
- 12th Revised Page 3
- 14th Revised Page 3.1
- 6th Revised Page 4
- 2nd Revised Page 8
- 1st Revised Page 10
- 1st Revised Page 24
- 2nd Revised Page 50
- Original Page 59.1
- Original Page 59.2
- Original Page 59.3

Original Page 59.4

Original Page 59.5

Original Page 59.6

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, MCI cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than January 11, 1994 and is to be documented by affidavit filed with this office on or before January 24, 1994; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than January 24, 1994; and it is

FURTHER ORDERED, that MCI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective January 26, 1994, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirtieth day of December, 1993.

=====

NH.PUC*12/30/93*[75323]*78 NH PUC 749*MCI Telecommunications Corporation of New Hampshire

[Go to End of 75323]

Re MCI Telecommunications Corporation of New Hampshire

DE 93-246

Order No. 21,085

78 NH PUC 749

New Hampshire Public Utilities Commission

December 30, 1993

Order *Nisi* Approving Revisions to MCI Vision and Introducing an MCI Vision Regional Promotion.

BY THE COMMISSION:

ORDER

On December 8, 1993, MCI Telecommunications Corporation of New Hampshire (MCI) filed with the New Hampshire Public Utilities Commission (Commission) a petition seeking to revise the usage structure associated with MCI Vision and introduce a promotional rate for MCI

Vision; and

WHEREAS, the revision to MCI Vision changes the minimum initial period from six seconds to 18 seconds; and

WHEREAS, the MCI Vision Regional Promotion consists of discounted rates between the effective date of this tariff and March 31, 1994; and

WHEREAS, MCI filed these tariff pages for effect January 8, 1994; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects

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of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the following tariff pages for MCI's NHPUC No. 1 - are approved:

24th Revised Page 1 in Lieu of 23rd Revision

13th Revised Page 2 in Lieu of 12th Revision

12th Revised Page 3

15th Revised Page 3.1 in Lieu of 14th Revision

3rd Revised Page 22

2nd Revised Page 53

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, MCI cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than January 11, 1994 and is to be documented by affidavit filed with this office on or before January 24, 1994; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than January 24, 1994; and it is

FURTHER ORDERED, that MCI file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective January 26, 1994, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirtieth day of December, 1993.

=====

NH.PUC*12/30/93*[75324]*78 NH PUC 750*Tel-Save, Inc.

[Go to End of 75324]

Re Tel-Save, Inc.

DE 93-230

Order No. 21,086

78 NH PUC 750

New Hampshire Public Utilities Commission

December 30, 1993

Order *Nisi* Approving Petition for Authority to Conduct Business as a Telecommunications Utility in New Hampshire.

BY THE COMMISSION:

ORDER

On October 18, 1993, Tel-Save, Inc. (Tel-Save), a New Hampshire corporation, petitioned the New Hampshire Public Utilities Commission (Commission) for authority to do business as a telecommunications utility in the State of New Hampshire (petition) pursuant to, *inter alia*, RSA 374:22 and RSA 374:26; and

WHEREAS, interim authority for intrastate competition in the telecommunications industry will allow the Commission to analyze competition during the two-year Trial Period (October 1, 1993 to September 30, 1995) described in Commission Report and Order No. 20,916 (August 2, 1993); and

WHEREAS, Tel-Save has demonstrated the financial, managerial and technical ability to offer service as conditioned by this order; and

WHEREAS, the public good is served by permitting interim competition by competent telecommunications companies; and

WHEREAS, the public should be provided an opportunity to respond in support of, or in opposition to this petition; it is hereby

ORDERED, that Tel-Save shall notify all persons interested in responding to this petition that they may submit comments or file a written request for a hearing on this matter before the Commission no later than January 27, 1994; and it is

FURTHER ORDERED, that Tel-Save shall publish an attested copy of the Notice of Conditional Approval attached to this Order once in a newspaper having general statewide circulation, publication to be no later than January 12, 1994. Compliance with this notice provision shall be documented by affidavit to be filed with the Commission on or before January 27, 1994; and it is

FURTHER ORDERED, that pursuant to RSA 363-A:1, et seq. Tel-Save shall pay all

assessments levied upon it by the Commission

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based on the amount of gross revenues received as a result of doing business in New Hampshire; and it is

FURTHER ORDERED, that Tel-Save may offer as a public utility, telecommunication services for the service territory of the entire State of New Hampshire; and it is

FURTHER ORDERED, *NISI*, that Tel-Save hereby is granted authority to offer intrastate long distance services in the State of New Hampshire subject to the following conditions:

1. that the services shall be offered only by approved tariffs, as subsequently amended, and shall be offered only on an interim basis until completion of the Trial Period, at which time the authority granted herein may be revoked or continued on the same or different basis;
2. that Tel-Save shall file tariffs for new services and changes in approved services (other than rate changes), with effective dates of no less than 30 days after the date the tariffs are filed with the Commission;
3. that Tel-Save shall notify the Commission of any change in rates of approved services to be charged the public within one day after offering the service at rates other than the rates on file with the Commission;
4. that Tel-Save is exempt from NH Admin. Rules, Puc 406.03 Accounting Records; Puc 407 Forms Required of All Telephone Utilities; and Puc 409 Uniform System of Accounts for Telecommunications Companies;
5. that Tel-Save shall maintain its books and records in accordance with Generally Accepted Accounting Principles;
6. that Tel-Save shall file each calendar year an Annual Report, consisting of: a Balance Sheet and Statement of Operations and an Information Sheet, reflecting to whom the N.H. Utility Assessment should be mailed and a Listing of Corporate Officers and Titles;
7. that Tel-Save shall be subject and responsible for adhering to all statutes and administrative rules including those related to quality and terms and conditions of service, disconnections, deposits and billing, except those specifically waived herein;
8. that Tel-Save shall be subject to all reporting requirements contained in RSA 374:13-19 and any filing or reporting requirements imposed by the Commission in this or subsequent orders;
9. that Tel-Save shall compensate the appropriate Local Exchange Company for all originating and terminating access used by Tel-Save pursuant to NET Tariff N.H.P.U.C. 78, Switched Access Service Rate or its relevant equivalent contained in the tariffs of the Independent Local Exchange Companies;a) b)
10. that all new service offerings are to be accompanied by a description of the service, rates and effective dates;
11. that during the Trial Period, Tel-Save shall within 60 days following the end of calendar

quarter, report on a confidential basis, except where noted, monthly statistics, for each month the service is offered, the following information:

a. For each intrastate toll service offered:

(1) number of subscribers in NH who have intrastate usage will be provided annually on July 1, 1993, 1994 and 1995; otherwise monthly reports will identify total subscribers;

(2) intrastate minutes of use;

(3) intrastate revenue;

(4) type of access arrangement used;

(5) for services that use different access arrangements (e.g. SDN) the percentage of use relative to

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each type of access arrangement will be provided annually on July 1, 1993, 1994 and 1995;

(6) whether the service is residential or business or both. Item a.(6) is not confidential.

b. On an aggregate basis, intrastate minutes and access charges actually paid to each LEC;

c. The intrastate conversation minutes of use originated, reported separately by service, for switched access arrangements, and for special access arrangements;

d. The number of interstate and intrastate special access arrangements stated by channel capacity;

e. The intrastate conversation minutes of use terminated, reported separately by service, for switched access arrangements, and for special access arrangements;

f. As a percentage of total intrastate conversation minutes of use, the amount of intrastate traffic that was both originated and terminated over switched access;

g. For each interstate service offered which originates in New Hampshire or, for 800 service which terminates in New Hampshire:

(1) for non-800 services, originating outbound minutes of use;

(2) for 800 services, terminating inbound minutes of use;

(3) average call duration;

(4) type of access arrangement used. Item g.(4) is not confidential;

h. Percentage Interstate Use (PIU) reports preceding the quarter for which the PIU is applied (with a copy to the appropriate LEC); and it is

FURTHER ORDERED, that nothing contained in this Order shall be construed to allow Tel-Save to operate outside of the conditions set forth in appropriate Local Exchange Company tariffs; and it is

FURTHER ORDERED, that Tel-Save file a compliance tariff before beginning operations in accordance with NH Admin. Rules, Puc PART 1600; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective January 31, 1994, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirtieth day of December, 1993.

STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DE 93-230

Notice of Conditional Approval of Tel-Save, Inc. To Do Business as a Telecommunications Utility in State of New Hampshire

On October 18, 1993, Tel-Save, Inc., (Tel-Save), filed with the New Hampshire Public Utilities Commission (Commission) a petition to do business as a telecommunications utility in the State of New Hampshire, specifically to provide intrastate long distance telecommunications services. Tel-Save, a New Hampshire corporation, is affiliated with the Tel-Save, Inc. a Pennsylvania corporation.

In Order No. 21,086, the Commission granted Tel-Save conditional approval to operate as of January 31, 1994 subject to the right of the public and interested parties to comment on Tel-Save or its operations before the Order becomes final.

For copies of the petition or Commission order granting conditional approval, please

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contact the Commission's Executive Director and Secretary at (603) 271-2431, or as noted below. Anyone interested in commenting on Tel-Save's petition to do business in the State should submit written comments no later than January 27, 1994 to:

Wynn E. Arnold Executive Director and Secretary Public Utilities Commission 8 Old Suncook Road Concord, New Hampshire 03301

=====

NH.PUC*12/30/93*[75325]*78 NH PUC 753*Wiltel of New Hampshire, Inc.

[Go to End of 75325]

Re Wiltel of New Hampshire, Inc.

DE 93-262

Order No. 21,087

78 NH PUC 753

New Hampshire Public Utilities Commission

December 30, 1993

Order *Nisi* Approving Textual Changes and Changing the Issuing Officer of WilTel's Tariff.

BY THE COMMISSION:

ORDER

On December 10, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from WilTel of New Hampshire, Inc. (WilTel), a subsidiary of WilTel, Inc., for authority to make textual changes and to change the issuing officer of its tariff; and

WHEREAS, the textual changes, *inter alia*, clarify the definition of the off-peak "non-day" rate period, i.e. the night and evening period; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the tariff WilTel, NH.P.U.C. No. 2 is approved; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, WilTel cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than January 12, 1994 and is to be documented by affidavit filed with this office on or before January 27, 1994; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than January 27, 1994; and it is

FURTHER ORDERED, that WilTel file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective January 31, 1994, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirtieth day of December, 1993.

=====

NH.PUC*12/30/93*[75326]*78 NH PUC 753*Hertz Technologies of New Hampshire, Inc.

[Go to End of 75326]

Re Hertz Technologies of New Hampshire, Inc.

DE 93-266
Order No. 21,088

78 NH PUC 753

New Hampshire Public Utilities Commission

December 30, 1993

Order *Nisi* Approving: Schedule M Services, Schedule S, I and H Services, Rate Changes and Textual Changes.

BY THE COMMISSION:

ORDER

On December 20, 1993, the New Hampshire Public Utilities Commission (Commission) received a petition from Hertz Technologies of New Hampshire, Inc. (Hertz), for authority to offer its Schedule M, and Schedule S, I and H services, and to make rate changes and certain textual changes; and

WHEREAS, the Schedule M filing provides toll with MCI as the underlying carrier; and

WHEREAS, the Schedule S, I and H filings provide service with AT&T as the under-

Page 753

lying carrier, Schedule S offering outbound toll service, Schedule I offering inbound "800" service, and Schedule H offering outbound toll service from multiple customer locations; and

WHEREAS, the rate changes are for existing services, and the textual changes update the customer billing inquiry toll-free telephone number; and

WHEREAS, the proposed changes expand the choice of telephone services to New Hampshire customers thereby fostering competitive entry and competition in New Hampshire while allowing the Commission to analyze the effects of competition, which is in the public good; and

WHEREAS, the public should be offered an opportunity to respond in support of, or in opposition to said petition; it is hereby

ORDERED *NISI*, that the following tariff pages are approved for Hertz, NH.P.U.C. No. 1:

Second Revised Sheet 2 Second Revised Sheet 3 First Revised Sheet 16 First Revised Sheet 24 Original Sheet 24.1 Original Sheet 24.2 First Revised Sheet 36 Original Sheet 36.1 Original Sheet 36.2 Original Sheet 36.3 Original Sheet 36.4 First Revised Sheet 37 First Revised Sheet 38 First Revised Sheet 39 First Revised Sheet 40;

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, Hertz cause an attested copy of this Order *Nisi* to be published in a newspaper having general circulation in that portion of the State of New Hampshire in which operations are proposed to be conducted, such publication to be no later than January 12, 1994 and is to be documented by affidavit filed with this office on or before January 27, 1994; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified

that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than January 27, 1994; and it is

FURTHER ORDERED, that Hertz file properly annotated tariff pages in compliance with this Commission order no later than two weeks from the issuance date of this order; and it is

FURTHER ORDERED, that this Order *Nisi* will be effective January 31, 1994, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the New Hampshire Public Utilities Commission this thirtieth day of December, 1993.

=====

Endnotes

1 (Popup)

¹ Between 100 and 1000 KW of rated capacity.

2 (Popup)

² To avoid any confusion, the intent of this section is to set 15 years as the maximum length of the standard contract available to any qualifying QF.

3 (Popup)

¹The application was filed on September 3, 1991 and thereby, is governed by the provision of RSA Chapter 162-F, in accordance with RSA Chapter 162-H:5.

4 (Popup)

¹The five residential programs include 1) Electric Space Heating, which installs weatherization and other conservation measures in the homes of customers with electric heat; 2) Residential Lighting, which sells efficient compact fluorescent lamps at reduced prices; 3) Home Energy Management, which cycles customers' water heaters to shift load to off-peak hours; 4) Energy-Crafted Homes, which promotes efficiency in the design and construction of new homes; and 5) Multi-Family Retrofit, a new program which installs a variety of conservation measures in electrically-heated multi-family buildings of five or more units. The proposed C&I programs include 1) Design 2000, which encourages efficiency in new construction, renovation, remodelling and replacement of failed equipment; 2) Energy Initiative, which encourages the replacement of existing equipment with more efficient equipment; and 3) the Small C&I Program which installs conservation measures in the facilities of C&I customers with average monthly demands of less than 50 kilowatts ("kW") or annual energy use of less than 150,000 kilowatthours ("kWh").

5 (Popup)

²The overall benefit/cost ratio of the Company's C&LM program is 2.11/1. The individual programs are also cost-effective, with the exception of Energy-Crafted Home, which, due to low participation levels and high start-up costs, is not cost-effective on a one-year basis, but is expected to be cost-effective over five years.

6 (Popup)

³The cost-effectiveness of the Multi-Family Retrofit Program has been revised based on more recent data. The benefit/cost ratio for this program has moved from 1.01 to 1.55.

[TABLE TO BE SHOT] [Attachment 1 - page 1 of 2]

GRANITE STATE ELECTRIC COMPANY N.H.P.U.C. Docket No. 92-161

7 (Popup)

¹ On February 4, 1993 the commission issued Order No. 20,743 to clarify and replace Order No. 20,718.

8 (Popup)

² The proposed new programs are to be offered in the service territories of Fitchburg Gas & Electric, Concord Electric, and Exeter & Hampton Electric Companies.

9 (Popup)

³ e.g., the replacement of a incandescent light bulb with a high efficiency compact fluorescent light bulb.

10 (Popup)

⁴ e.g. the wrapping of hot water pipes.

11 (Popup)

¹ On July 1, 1993, the Commission issued Order No. 20,888 in docket DA 92-199 authorizing Granite State to increase rates by \$771,000, or 1.23 percent, for the implementation of FAS 106 Post Retirement Benefits Other than Pensions.

12 (Popup)

² The Offer of Settlement encompasses 128 pages and includes a description of the Settlement and seven Attachments. Due to the length of the document, only the narrative and Attachment 1, which contains exhibits describing the determination of the revenue requirements, will be appended to the Order as Attachment A. The other six Attachments cover revenue requirements, rate settlement surcharge determination, cost allocation, rate design, typical bill analysis, reconciled purchased power cost adjustment and a tariff based on the Offer of Settlement.

[THE FOLLOWING TEXT WAS NOT PUBLISHED IN NEW HAMPSHIRE VOLUME 78.]

ATTACHMENT A

13 (Popup)

¹ This request was subsequently revised to \$.76 million.

14 (Popup)

¹ The following is a calculation of the overall cost of capital:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Total	Component Ratio	Cost Rate	Wt'd Avg. Cost of Capital
Common Equity	\$37,145,535	49.33%	10.39%	5.13%

Long Term Debt	\$35,361,660	46.96%	9.55%	4.48%
Short Term Debt	\$2,798,734	3.72%	6.00%	0.22%
Total	\$75,305,929	100.01%		9.83%

This capital structure reflects an adjustment to Staff's calculation by adding the \$935,000 from the so called New Hampshire Supreme Court's take-or-pay decision to retained earnings.

15 (Popup)

² Rate base is calculated as follows:

Gross Plant!\$103,730,024 Less: Construction Work in Progress!183,452 !_ Plant in Service!\$103,546,572 Less: Accumulated Depreciation!28,197,252
 Contribution in Aid of Constr.!1,923,855
 Capitalized Leases!381,819 !_ Net Plant in Service!73,043,646 Add: Working Capital!(4,528,168) !_ Rate Base!\$68,515,478

16 (Popup)

¹ To determine the residential and commercial long term forecasts, NEES uses end use models. For the industrial forecast, NEES uses an econometric model. These models are flowed into a peak load model, which develops the system peak load. Tr. at 16.

17 (Popup)

² Real-levelization produces a stream of nominal payments that increase at the constant rate of inflation. The present value of the real-levelized cost stream is identical to the present value of the actual cost stream. Exh. 8 at 233.

18 (Popup)

³ See Howard, "Secret Weapon", Public Utilities Fortnightly, (January 15, 1993)

19 (Popup)

¹Section 111(d) includes section 111(d) (8) described above and implicitly sections 111(c)(3)(A) and (B) as they refer to the implementation of any standard accepted from section 111(d).

20 (Popup)

¹ Birchview by the Saco, Inc. is a corporation engaged in the business of providing water to the public and developing real estate. As part of the resolution of the rate case the company agreed to separate its real estate and utility interests into separate entities.

21 (Popup)

¹ Birchview by the Saco, Inc. is a corporation engaged in the business of providing water to the public and developing real estate. As part of the resolution of the rate case the company agreed to separate its real estate and utility interests into separate entities.

22 (Popup)

¹Computer inquiry II, final decision, 77 FCC 2d 384, *modified on reconsideration*, 84

FCC 2d 50 (1980), *further modified on reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom. Computer Communications Industry Ass'n v. FCC*, 693 F 2d 198 (DC Cir. 1982) *cert. denied sub nom. Louisiana Public Service Commission v. United States*, 461 U.S. 938 (1983), *aff'd on second further reconsideration*, FCC 84-190 (released May 4, 1984). *See* Re De-tariffing the installation and maintenance of inside wiring, (Second Report and Order) *See* Docket No. 79-105, FCC 86-63, 51 FR 8498 (February 24, 1986).

23 (Popup)

²Re De-tariffing Telephone Utilities Inside Wiring, and other maintenance services, docket DE 86-154, 71 NH PUC 801 (December 19, 1986)(Revised December 30, 1986).

24 (Popup)

³NET's Telesure Plus Program provides for the maintenance and repair of inside wiring and a loaner telephone if a customer has to send phone in for repair. NET does not maintain or repair phones (CPE).

25 (Popup)

¹ Although the New Hampshire Licensed Plumbers generally supported the gas utilities' attempt to modify Puc 510, they also raised concerns relative to the subsidization of the utilities' appliance businesses by their monopoly distribution company status. This is not the first time this concern has been raised, and we would request our finance department to investigate whether gas utility appliance sales operations should be separated from the monopoly distribution company to prevent any possible subsidization.

26 (Popup)

² We would like to thank all of the members of the public, the utility industry, and the General Court that took the time out of their schedules to come to these hearings or draft comments relative to the proposed amendments to Puc 311 and 510. The participation by the public and its representatives provide the type of input that allows us to fully analyze and understand the ramifications of our policies.

27 (Popup)

³ The Commission has been in the process of developing a LCIP methodology for gas utilities for approximately one year, and will continue with that process.

28 (Popup)

¹ The letter ruling (LTR 9125009, March 19, 1991) concludes that a utility must treat as income the reconstruction cost of developer owned systems less any money paid for the system, even though the transaction was at arms length and represented the fair market value of the system, and the regulatory body used "book value" as a basis for setting rates. *See* Attachment A.

29 (Popup)

² However, in this particular case the Company's adjusted revenue requirement for the two systems after factoring in the tax consequences of the IRS ruling was \$24,047 for Glen Woodlands and \$20,632 for Maple Haven.

30 (Popup)

¹ Given the testimony in this case relative to the expectation of recurring problems with the customer service line, we would encourage the Company to work with Ms. Gauvin in attempting to find an alternative to the current situation.

31 (Popup)

¹Revisions pertain to question 28 and its attachments.

32 (Popup)

²Residential programs are: 1) Hot Water House Calls that includes tank and pipe wraps, high efficiency heaters, low flow showerheads and radio controlled tank thermostats; 2) Leased Lighting that entails leasing 18 Watt compact fluorescent light bulbs from NHEC; 3) Dual Fuel program involves the use of radio controls to interrupt electric space heat load from customers with two heating fuels; and 4) Warm Home Service that includes envelope insulation, weatherization measures and electric thermal storage heating units. Commercial programs are: 1) Interruptible Loads that provide demand credits for customers who curtail load during peak demand periods; and 2) Commercial Conservation Service which uses an energy audit to identify cost effective locations for retrofit installations of energy efficient lighting, heating and water heating measures, etc.

33 (Popup)

³Based on assumed market penetration, incentive levels, etc. See also page 6-2 of the LCIP filing.

34 (Popup)

⁴See Exh. 3 at p. 2-3.

35 (Popup)

¹This form is commonly referred to as the Societal Resource Cost Test, as the TRC test does not include externalities.

36 (Popup)

²The four residential programs include: 1) Hot Water House Calls, which includes such measures as high efficiency water heater tanks, tank and pipe wrapping, low flow showerheads, and radio control of tanks; 2) Leased Lighting, which involves the leasing of 18 Watt compact fluorescent lamps from NHEC; 3) Warm Home Service, which includes such measures as electric thermal storage (ETS) heating, wall and ceiling insulation, and weatherization; and 4) Dual Fuel, which uses radio control to interrupt the electric heating load of customers with an alternative heating source.

37 (Popup)

³The two commercial programs include: 1) Interruptible Loads, which provides commercial customers with demand credits for voluntary curtailments during peak demand periods; 2) Commercial Conservation Service, which uses energy audits to encourage commercial customers to purchase and install various energy saving lighting, heating, water heating, etc., measures.

38 (Popup)

⁴Table 6-2 in the Company's filing provides a detailed breakdown of proposed annual budgets.

39 (Popup)

⁵The exception being energy that NHEC must purchase from an independent power producer or non-utility supplier pursuant to the requirements of governmental authorities.

40 (Popup)

⁶Based upon assumed market penetration, incentive levels, etc.

41 (Popup)

¹The analysis and results of the 1991-1992 Interruptible Load Program are discussed in an April 21, 1992 report prepared by Mr. Bill Bayard of NHEC. It is entitled Report on the Results of the 1991-1992

42 (Popup)

¹In NET's view, the term "negotiated add-on" represents the differential between toll and access; in the IXC's view, the term represents the cost of the non-access functions which NET uses to provide its toll service.

43 (Popup)

²*Long Distance for Less*, Robert Self, (Market Dynamics), Chapter 15 pages 20-31.

44 (Popup)

* For the purposes of receiving discovery responses setting forth information and documents subject to this Agreement, each party which signs the Agreement will be considered a "Requesting Party" and will be served the protected information and documents in accordance with this Agreement, regardless of whether the party served the particular request to which the response is provided.

Respectfully submitted,

STAFF OF THE PUBLIC UTILITIES COMMISSION DATED

OFFICE OF THE CONSUMER ADVOCATE DATED

NEW ENGLAND TELEPHONE DATED AND TELEGRAPH
COMPANY

AT & T COMMUNICATIONS OF NEW ENGLAND, INC. DATED

DUNBARTON TELEPHONE COMPANY, INC. DATED MERRIMACK
COUNTY TELEPHONE COMPANY GRANITE STATE TELEPHONE, INC. WILTON

TELEPHONE COMPANY, INC.

LONG DISTANCE NORTH OF NEW HAMPSHIRE, INC. DATED

MCI TELECOMMUNICATIONS CORPORATION DATED

US SPRINT COMMUNICATIONS COMPANY DATED

UNION TELEPHONE COMPANY DATED

45 (Popup)

¹ See Howard, Jeffrey H., "Secret Weapon", *Public Utilities Fortnightly*, (January 15, 1993)

46 (Popup)

¹A map of the area in question was marked as Exhibit No. 1A and is titled "Portion of Hudson Tax Map 59-Subdivision Plan No. 510 Neighborhood Lots," which is included as Attachment 1 to this Report and Order.

47 (Popup)

²Exhibit 2, Section 4.0, iii and Petition for Reimbursement of Costs at 3.

48 (Popup)

³SNHW trial brief, dated June 2, 1992 at 5.

49 (Popup)

⁴SNHW trial brief at 6.

50 (Popup)

⁵See, *Langford v. Town of Newton*, 119 NH 470 (1979); *Wise Shoe Co. v. Town of Exeter*, 119 NH 700 (1979); *Appeal of Town of Plymouth*, 125 NH 141 (1985).

51 (Popup)

⁶"Where there are no 'statutory time limitations applicable to particular administrative proceedings...the question of whether or not there is a bar by time may turn on the question of Laches.'" *Appeal of Plantier*, 126 N.H. 500 at 504-505, citing numeral 2 Am. JUR. 2d *Administrative Law*, § 321 (1962).

52 (Popup)

⁷*Ibid.* at 505.

53 (Popup)

⁸*Id.*

54 (Popup)

⁹RSA 378:3.

55 (Popup)

¹⁰RSA 378:18 provides that "[N]othing herein shall prevent a public utility from making a contract for service at rates other than those fixed by its schedules or general application, if special circumstances exist which render such departure from the general schedule is just and consistent with the public interest, and the commission shall by order allow such contract to take effect.

56 (Popup)

¹¹NHPUC No. 7 - Water, SNHW, Inc. Fifth Revised Page Twelve.

57 (Popup)

¹²Ex. 7. Hudson Water Company was the predecessor to SNHW.

58 (Popup)

¹³Ex. 7, NHPUC No. 7 - Water, Hudson Water Company, Second Revised 13, effective January 1, 1978.

59 (Popup)

¹⁴Tr. II at 106.

60 (Popup)

¹⁵Tariff NHPUC No. 7 - Water, Hudson Water Company, Second Revised Page 13, effective January 1, 1978.

61 (Popup)

¹⁶Tr. II at 106.

62 (Popup)

¹⁷*Ibid.*

63 (Popup)

¹⁸Trial brief of SNHW at 10.

64 (Popup)

¹ The only alternative means for a switch to distinguish between three digits dialed after the "1" connoting an area code and three digits dialed after the "1" connoting a central office code would be to incorporate a connection delay of 4 seconds. This alternative was unacceptable to all interested parties and has generally been found to be unacceptable around the country.

65 (Popup)

¹ Although the Staff and PSNH acknowledge that the immediate proceeding is not an economic development filing, *per se*, those interested in the distinction between this filing, a load retention filing, and filings for economic development and business retention should refer to Report and Order No. 20,633, October 19, 1992, in docket DR 91-172, the Generic Discounted Rates Docket. Additional information is contained in Order No. 20,882, issued June 23, 1993,

Supplemental Order Approving Final Checklist for Economic Development and Business Retention Special Contracts.

66 (Popup)

¹ Anheuser-Busch's recommendation applied only to ENGI's Trial Rate.

67 (Popup)

¹ These agreements are discussed in depth in *Re Northeast Utilities/ Public Service Company of New Hampshire*, 114 PUR 4th 1990.

68 (Popup)

¹The Initial System comprises the generation and transmission resources of The Connecticut Light & Power, Western Massachusetts Electric Company, and Holyoke Water Power Company. The utilization and development of those resources for the benefit of all Initial System companies and the allocation of the resulting costs are governed by a Generation and Transmission Agreement. Because resource decisions are made to minimize Initial System costs and those costs are allocated based on need, there is no incentive for individual operating companies to pursue separate system planning.

69 (Popup)

²The allocation of synergies between the two systems is governed by the terms of the Sharing Agreement. For example, the synergy resulting from the more efficient utilization of the generating resources of the two systems is divided equally between the two systems.

70 (Popup)

³The possible retirement or repowering of Merrimack 2 in 1999 and its cost and rate implications for PSNH were not addressed in the 1992 LCIRP filing, however some information was provided in response to subsequent data requests.

71 (Popup)

⁴Current estimates indicate that the retirement of Merrimack 2 in 1999 and its replacement with slice-of-system capacity transfers will cost PSNH approximately \$50 million annually in additional power expenses (less O&M reductions related to its retirement). In addition, the retirement of Merrimack 2 would require a \$20 to \$30 million capital expenditure to rectify a transmission reliability problem related to the retirement of the plant.

72 (Popup)

⁵As described in response to Data Request NSTF-05, STAFF-001, dated February 23, 1993.

73 (Popup)

⁶The cost of this purchase will be based on the cost methodology outlined in Attachment A to the sharing agreement.

74 (Popup)

⁷Vulnerable customers will be defined as those customers for whom PSNH petitions the Commission for approval of special considerations, i.e., special contracts, etc.

75 (Popup)

⁷Vulnerable customers will be defined as those customers for whom PSNH petitions the Commission for approval of special considerations, i.e., special contracts, etc.

76 (Popup)

¹ We would not look favorably on any withdrawal of the appeal to the Board of Land and Tax Appeals, as such a withdrawal could have significant ratemaking ramifications.

77 (Popup)

¹ Based on this information we conclude the contract was consummated on the date of the execution of the work order, December 22, 1988.

78 (Popup)

¹ The "short term" nature of this so-called subsidization becomes readily apparent as the "step adjustments" provided for herein are added to ratebase.